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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

[Amdt. 1]

PART 518—FRUITS AND BERRIES, DRIED AND PROCESSED

DRIED FRUIT EXPORT PROGRAM, FISCAL YEAR 1949

The Supplementary Statement to the Dried Fruit Export Program (fiscal Year 1949), dated December 30, 1948 (14 F. R. 33, 35), is hereby amended as follows:

1. In § 518.22 (b) delete the part beginning with the words "Exporters participating in this program" and ending with the words "full delivery has not been made." The deleted part is modified and stated more fully in § 518.22 (f) which is added hereinafter.

2. At the end of § 518.22 (d) add the following: "A statement by the exporter that at the request of the foreign buyer he has set up on his books a credit in favor of such buyer, accompanied by a certified copy of the foreign buyer's request and of the exporter's notice to the foreign buyer of the setting up of such credit, will be considered by the Department equivalent to proof of remittance."

3. At the end of § 518.22 add the following:

(e) If the exporter has a contract or contracts for the sale of dried prunes or raisins or both, made prior to November 26, 1948, at prices which did not reflect an export payment under the Dried Fruit Export Program, and such contract or contracts are not cancelled and neither is delivery under them completed, no sale of dried prunes under this program entered into by the exporter with the buyer named in any such contract will be considered as having been made in good faith pursuant to § 518.10 until the dried prunes which remain to be delivered under such contract have been shipped to the buyer, and, similarly, no sale of raisins under this program entered into by the exporter with the buyer named in any such contract will be considered as having been made in good faith until the raisins which remain to be delivered under such contract have been shipped to the buyer.

(f) Exporters participating in this program shall: (1) Furnish to the Director, Fruit and Vegetable Branch, a copy of each contract with a foreign buyer for the export of dried prunes or raisins or both to any approved country designated in § 518.3, entered into prior to November 26, 1948, pursuant to which contract deliveries have not yet been made in full or, in lieu of such copy, may furnish in a written statement the details of each such contract including in such details the kind, variety, size, and quantity of the fruit, the original shipping period specified and any amendments thereto, and the name and address of the buyer or, (2) certify to said Director that they are not parties to any such contract. Such details will be kept confidential by the Department, but the Department will, upon request, advise a prospective seller whether his contemplated sale appears to be in substitution of a sale made to the same buyer by another seller prior to November 26, 1948, under which full delivery has not been made.

(Sec. 32, 49 Stat. 774, as amended, sec. 112 (f), Pub. Law 472, 80th Cong., 62 Stat. 137; 7 U. S. C. 612c)

Dated on the 18th day of February 1949.

[SEAL] RALPH S. TRIGG,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 49-1396; Filed, Feb. 23, 1949; 8:49 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d Gen. Rev. of Export Regs., Amdt. 45]

PART 372—GENERAL LICENSES

STREPTOMYCIN

Section 372.10 *Shipments of limited value "GLV"* is amended in the following particulars:

Paragraph (f) *Special provisions for streptomycin* is hereby deleted.

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

This amendment shall become effective February 11, 1949.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, 61 Stat. 214, 61 Stat. 321; Pub. Law 395, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: February 4, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-1403; Filed, Feb. 23, 1949; 8:53 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5687]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

MISCELLANEOUS AMENDMENTS

Regulations 111 amended to conform to the Revenue Act of 1948 (Pub. Law 471, 80th Cong).

On October 27, 1948, notice of proposed rule making, regarding amendments to the income tax regulations made necessary by the Revenue Act of 1948 (62 Stat. 111), enacted April 2, 1948, was published in the FEDERAL REGISTER (13 F. R. 6289). No objection to the rules proposed having been received, the amendments set forth below are hereby adopted. The amendments are made in order to conform Regulations 111 (26 CFR, Part 29), relating to the income tax, to the amendments made to chapter 1 of the Internal Revenue Code by the Revenue Act of 1948.

PARAGRAPH 1. There is inserted immediately preceding § 29.11-1 the following:

TITLE I—INCOME TAX REDUCTION

(Revenue Act of 1948)

SEC. 101. REDUCTION OF NORMAL TAX AND SURTAX.

Section 12 (c) of the Internal Revenue Code is hereby amended to read as follows:

(c) *Reduction of tentative normal tax and tentative surtax.* (1) The combined normal tax and surtax under section 11 and subsec-

tion (b) of this section shall be the aggregate of the tentative normal tax and tentative surtax, reduced as follows:

If the aggregate is:	The reduction shall be:
Not over $400	17% of the aggregate.
Over $400 but not over $100,000.	$68 plus 12% of excess over $400.
Over $100,000	$12,020 plus 9.75% of excess over $100,000.

(2) In no event shall the combined normal tax and surtax exceed 77 per centum of the net income.

* * * * *

SEC. 104. TECHNICAL AMENDMENTS.

(a) Section 11 of the Internal Revenue Code (relating to the normal tax on individuals) is hereby amended by striking out "by 5 per centum thereof" and inserting in lieu thereof "as provided in section 12 (c)".

* * * * * *

(c) Subsections (d), (e), (f), (g), and (h) of section 12 of the Internal Revenue Code are amended to read as follows:

(e) *Computation of tax without regard to credits against tax.* In the application of this section, the combined normal tax and surtax shall be computed without regard to the credits provided in sections 31, 32, and 35.

(f) *Ascertainment of normal tax and surtax separately.* Whenever it is necessary to ascertain the normal tax and the surtax separately, the surtax shall be an amount which is the same proportion of the combined normal tax and surtax as the tentative surtax is of the aggregate of the tentative normal tax and tentative surtax; and the normal tax shall be the remainder of such combined normal tax and surtax.

* * * * * *

SEC. 105. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE.

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

SEC. 301. SPLITTING OF INCOME. (Revenue Act of 1948, Title III.)

Section 12 of the Internal Revenue Code (relating to surtax of individuals) is hereby amended by adding after subsection (c) of such section the following new subsection:

(d) *Tax in case of joint return.* In the case of a joint return of husband and wife under section 51 (b), the combined normal tax and surtax under section 11 and subsection (b) of this section shall be twice the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half.

SEC. 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title III.)

The amendments made by sections 301, * * * shall be applicable with respect to taxable years beginning after December 31, 1947. * * * For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 2. Section 29.11–1, as amended by Treasury Decision 5517, approved June 12, 1946, is further amended by striking out the last two sentences and inserting in lieu thereof the following: "For taxable years beginning after December 31, 1945, and before January 1, 1948, the normal tax on individuals is determined by computing a tentative normal tax of 3 percent of the amount of the net income in excess of the credits against net income provided in section 25 for such years and by reducing such tentative normal tax by 5 percent thereof. For taxable years beginning after December 31, 1947, the normal tax on individuals is determined by computing a tentative normal tax of 3 percent of the amount of the net income in excess of the credits against net income provided in section 25 and by reducing such tentative normal tax as provided in section 12 (c). See § 29.12–2. For computation of tax in the case of a joint return of husband and wife for a taxable year beginning after December 31, 1947, see § 29.12–4.

For treatment of taxable years beginning in 1945 and ending in 1946, see § 29.108–2. For treatment of taxable years beginning in 1947 and ending in 1948, see § 29.108–3."

PAR. 3. There is inserted immediately preceding § 29.12–1 the following:

TITLE I—INCOME TAX REDUCTION

(Revenue Act of 1948)

SEC. 101. REDUCTION OF NORMAL TAX AND SURTAX.

Section 12 (c) of the Internal Revenue Code is hereby amended to read as follows:

(c) *Reduction of tentative normal tax and tentative surtax.* (1) The combined normal tax and surtax under section 11 and subsection (b) of this section shall be the aggregate of the tentative normal tax and tentative surtax, reduced as follows:

If the aggregate is:	The reduction shall be:
Not over $400	17% of the aggregate.
Over $400 but not over $100,000.	$68 plus 12% of excess over $400.
Over $100,000	$12,020 plus 9.75% of excess over $100,000.

(2) In no event shall the combined normal tax and surtax exceed 77 per centum of the net income.

SEC. 102. REDUCTION IN SUPPLEMENT T TAX.

For reduction in the tax under Supplement T of Chapter 1 of the Internal Revenue Code (tax table which may be used by taxpayer at his election if his adjusted gross income is less than $5,000), see section 401.

SEC. 103. INCOME OF HUSBAND AND WIFE.

For tax in case of joint return of husband and wife (the so-called "splitting of income"), see section 301.

SEC. 104. TECHNICAL AMENDMENTS.

* * * * * *

(b) Section 12 (b) of the Internal Revenue Code (relating to the rate of surtax on individuals) is hereby amended by striking out "by 5 per centum thereof" and inserting in lieu thereof "as provided in subsection (c) of this section".

(c) Subsections (d), (e), (f), (g), and (h) of section 12 of the Internal Revenue Code are amended to read as follows:

(e) *Computation of tax without regard to credits against tax.* In the application of this section, the combined normal tax and surtax shall be computed without regard to the credits provided in sections 31, 32, and 35.

(f) *Ascertainment of normal tax and surtax separately.* Whenever it is necessary to ascertain the normal tax and the surtax separately, the surtax shall be an amount which is the same proportion of the combined normal tax and surtax as the tentative surtax is of the aggregate of the tentative normal tax and tentative surtax; and the normal tax shall be the remainder of such combined normal tax and surtax.

(g) *Cross references*—(1) *Alternative tax.* For alternative tax which may be elected if adjusted gross income is less than $5,000, see Supplement T.

(2) *Tax in case of capital gains.* For rate and computation of alternative tax in lieu of normal tax and surtax in the case of capital gain from the sale or exchange of capital assets held for more than 6 months, see section 117 (c).

(3) *Tax on personal holding companies.* For surtax on personal holding companies, see section 500.

(4) *Avoidance of surtaxes by incorporation.* For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

(5) *Sale of oil or gas properties.* For limitation of surtax attributable to the sale of oil or gas properties, see section 105.

SEC. 105. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE.

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

SEC. 301. SPLITTING OF INCOME. (Revenue Act of 1948, Title III.)

Section 12 of the Internal Revenue Code (relating to surtax of individuals) is hereby amended by adding after subsection (c) of such section the following new subsection:

(d) *Tax in case of joint return.* In the case of a joint return of husband and wife under section 51 (b), the combined normal tax and surtax under section 11 and subsection (b) of this section shall be twice the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half.

SEC. 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title III.)

The amendments made by sections 301, * * * shall be applicable with respect to taxable years beginning after December 31, 1947. * * * For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 4. Section 29.12–1, as amended by Treasury Decision 5517, is further amended by striking out paragraph (c) and inserting in lieu thereof the following:

§ 29.12–1 *Surtax.* * * *

(c) *Taxable years beginning after December 31, 1945, and before January 1, 1948.* For taxable years beginning after December 31, 1945, and before January 1, 1948, there is imposed, in addition to the normal tax, a surtax determined as specified in section 12 upon the surtax net income of every individual, resident or nonresident, except nonresident alien individuals subject to the tax imposed by section 211 (a). The surtax net income for such years is the net income minus the credits provided in section 25 (b) prior to its amendment by the Revenue Act of 1948. Section 12 provides with respect to such taxable years that the surtax shall be 5 percent less than the amount of the tentative surtax computed in accordance with the tentative surtax table contained therein. For treatment of taxable years beginning in 1945 and ending in 1946, see § 29.108–2.

(d) *Taxable years beginning after December 31, 1947.* For taxable years beginning after December 31, 1947, there is imposed, in addition to the normal tax, a surtax determined as specified in section 12, upon the surtax net income of every individual, resident or nonresident, except nonresident alien individuals sub-

ject to the tax imposed by section 211 (a). The surtax net income is the net income minus the credits provided in section 25 (b). Section 12 specifies that the surtax shall be determined by computing a tentative surtax in accordance with the tentative surtax table contained therein and by reducing such tentative surtax as provided in section 12 (c). For treatment of taxable years beginning in 1947 and ending in 1948, see § 29.108–3.

PAR. 5. Section 29.12–2, as amended by Treasury Decision 5517, is further amended by striking out the last sentence and inserting in lieu thereof the following:

§ 29.12–2 *Computation of surtax.* * * * For taxable years beginning after December 31, 1945, and prior to January 1, 1948, section 12 provides that the surtax shall be 5 percent less than the tentative surtax. Accordingly, the surtax for any of such taxable years upon a surtax net income of $63,128 would be $33,122.70, computed as follows:

Tentative surtax on $63,128	$34,866.00
Less: 5 percent of $34,866	1,743.30
Surtax	33,122.70

For taxable years beginning after December 31, 1947, section 12 provides that the combined normal tax and surtax shall be determined by reducing the aggregate of the tentative normal tax and tentative surtax as provided in the following table:

If the aggregate of the tentative normal tax and the tentative surtax is:	The reduction shall be:
Not over $400	17% of the aggregate.
Over $400 but not over $100,000.	$68 plus 12% of the excess over $400.
Over $100,000	$12,020 plus 9.75% of the excess over $100,000.

Accordingly, if the normal tax net income and the surtax net income each amounts to $150,000 the combined normal tax and surtax will be $98,647.55, computed as follows:

Tentative normal tax: 3 percent of $150,000	$4,500.00
Tentative surtax on $150,000 from table	107,320.00
Aggregate of tentative normal tax and tentative surtax	111,820.00
Reduction of tentative tax: $12,020 plus 9.75 percent of $11,820 (excess of the aggregate tentative tax over $100,000)	13,172.45
Combined normal tax and surtax	98,647.55

Section 12 (f), as amended by the Revenue Act of 1948, provides that, whenever it is necessary to ascertain the normal tax and the surtax separately for a taxable year beginning after December 31, 1947, the surtax shall be an amount which is the same proportion of the combined normal tax and surtax as the tentative surtax is of the aggregate of the tentative normal tax and tentative surtax and the normal tax shall be the remainder of such combined normal tax and surtax. Such computation, for example, is necessary for the purpose of section 105, relating to tax on the gain from the sale of oil or gas properties and for the purpose of section 106, relating to tax on amounts received with respect to claims against the United States involving acquisition of property. The surtax on the net income of $150,000 involved in the above example would under section 12 (f) be $98,647.55 (combined normal tax and surtax) multiplied by

$$\frac{107{,}320 \text{ (tentative surtax)}}{111{,}820 \text{ (tentative total tax)}},$$

or $94,677.65, and the normal tax would be $98,647.55 minus $94,677.65, or $3,969.90.

For computation of tax in the case of a joint return of husband and wife for a taxable year beginning after December 31, 1947, see § 29.12–4.

PAR. 6. Section 29.12–3, as amended by Treasury Decision 5517, is hereby further amended as follows:

(A) By inserting immediately after "December 31, 1945," in the second sentence "and before January 1, 1948,".

(B) By inserting at the end thereof the following: "For taxable years beginning after December 31, 1947, the combined normal tax and surtax, computed before the application thereto of the credit provided in section 31 (relating to the credit for foreign income tax), section 32 (relating to the credit for tax withheld at the source under section 143 or section 144), and section 35 (relating to the credit for tax withheld on wages), cannot exceed an amount equal to 77 percent of the taxpayer's net income for the taxable year. For treatment of taxable years beginning in 1947 and ending in 1948, see § 29.108–3."

PAR. 7. There is inserted immediately after § 29.12–3 the following section:

§ 29.12–4 *Combined normal tax and surtax in case of joint return of husband and wife for taxable years beginning after December 31, 1947.* In the case of a joint return of husband and wife (see section 51 (b)) for a taxable year beginning after December 31, 1947, the combined normal tax and surtax under section 11 and section 12 (b) shall be twice the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half. (Section 12 (d).) For method of computing gross income and adjusted gross income on a joint return, see § 29.51–1.

The method of computing, under section 12 (d), the tax of husband and wife, in the case of a joint return, is as follows:

First, the net income and applicable credits against net income are reduced by one-half. Second, the tentative normal tax and tentative surtax are determined as provided in section 11 and section 12 (b), by using the net income and applicable credits so reduced. Third, the tentative normal tax and tentative surtax so determined are aggregated and this aggregate tentative tax is then reduced as provided in section 12 (c). Fourth, this reduced aggregate, which is the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half, is then multiplied by two, to produce the tax imposed in the case of the joint return.

The limitation under section 12 (c) of the combined normal tax and surtax to an amount not in excess of 77 percent of the net income is to be applied before the fourth step above, that is, the limitation is to be applied upon the combined normal tax and surtax determined under section 12 (c) as 77 percent of one-half of the net income (such one-half of the net income being the actual aggregate net income of the spouses reduced by one-half). After such limitation is applied, then the combined normal tax and surtax so limited are multiplied by two as provided in section 12 (d).

The following computation illustrates the method of application of section 12 (d) in the determination of the tax of a husband and wife filing a joint return for the calendar year 1948. If the joint net income is $8,200 and the only allowable credits under section 25 are the two exemptions of the taxpayers under section 25 (b) (1) (A), the tax on the joint return for 1948 is $1,244.80, determined as follows:

1. Net income	$8,200.00
2. Net income reduced by one-half	4,100.00
3. Credits against net income under sec. 25 (2 exemptions under sec. 25 (b) (1) (A))	1,200.00
4. Credits in item 3 reduced by one-half	600.00
5. Net income reduced by one-half (item 2) minus credits reduced by one-half (item 4)	3,500.00
6. Tentative normal tax computed under sec. 11 on amount in item 5 (3 percent of $3,500)	105.00
7. Tentative surtax computed under sec. 12 (b) on amount in item 5 ($340 plus 19 percent of excess of $3,500 over $2,000)	625.00
8. Aggregate of the tentative normal tax and tentative surtax	730.00
9. Combined normal tax and surtax determined under sec. 12 (c) ($730 reduced by $68 plus 12 percent of the excess of $730 over $400)	622.40
10. Twice the combined normal tax and surtax determined in item 9	1,244.80

If the alternative tax is computed under section 117 (c) (2), relating to the alternative tax where a taxpayer (other than a corporation) has a net long-term capital gain in excess of a net short-term capital loss, the partial tax shall be computed under sections 11 and 12 as stated above but without inclusion of such excess in net income, and the total tax shall be such partial tax plus 50 percent of such excess as provided in section 117 (c) (2).

For computation of tax under Supplement T in the case of a joint return, see §§ 29.400–1 and 29.401–1.

For treatment of taxable years beginning in 1947 and ending in 1948, see § 29.108–3.

PAR. 8. Section 29.22 (m)–1, as added by Treasury Decision 5425, approved December 29, 1944, is amended as follows:

(A) By striking out the second sentence and inserting in lieu thereof the following: "Such compensation, there-

fore, shall be included in the gross income of the child and reflected in the return rendered by or for such child if the gross income for the taxable year amounts to $500 or more in the case of a taxable year beginning after December 31, 1943 and before January 1, 1948, or to $600 or more in the case of a taxable year beginning after December 31, 1947. See § 29.51–3."

(B) By striking from the third sentence ", whether more or less than $500,".

PAR. 9. There is inserted immediately preceding § 29.23 (x)–1 the following:

SEC. 304. DEDUCTION FOR MEDICAL EXPENSES. (Revenue Act of 1948, Title III.)

Section 23 (x) of the Internal Revenue Code (relating to deduction of medical, etc., expenses) is hereby amended by striking out the second and third sentences thereof and inserting in lieu thereof the following: "The deduction shall not be in excess of $1,250 multiplied by the number of exemptions allowed under section 25 (b) for the taxable year (exclusive of exemptions allowed under section 25 (b) (1) (B) or (C)), with a maximum deduction of $2,500, except that the maximum deduction shall be $5,000 in the case of a joint return of husband and wife under section 51 (b)."

SEC. 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title III.)

The amendments made by sections * * * 304 shall be applicable with respect to taxable years beginning after December 31, 1947. * * * For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 10. Section 29.23 (x)–1, as amended by Treasury Decision 5517 is further amended as follows:

(A) By striking from the first sentence of the second paragraph "§ 29.25–6" and inserting in lieu thereof §§ 29.25–3 and 29.25–6".

(B) By striking out the fifth sentence of the second paragraph and inserting in lieu thereof the following: "If the deduction for the prior year would have been greater but for the limitations on the maximum amount of such deduction provided by section 23 (x), then, for purposes of the two preceding sentences, the amount of the compensation received in a subsequent year or years shall be reduced by an amount equal to the amount by which the deduction for the prior year would, but for the applicable maximum limitations, have been increased. For the computations illustrating this rule, see examples (3) and (4) at the end of this section.

(C) By striking out the third sentence of the fifth paragraph and inserting in lieu thereof the following: "The maximum deduction allowable for medical expenses paid in any one taxable year beginning after December 31, 1943, and before January 1, 1948, is $1,250 in the case of a taxpayer having only one exemption under section 25 (b) (prior to its amendment by the Revenue Act of 1948), and $2,500 in the case of a taxpayer entitled to more than one exemption under section 25 (b) (prior to its amendment by the Revenue Act of 1948). The maximum deduction allowable for medical expenses paid in any one taxable year beginning after December 31, 1947, is $1,250 multiplied by the number of exemptions allowed under section 25 (b) (exclusive of exemptions allowed under section 25 (b) (1) (B) for taxpayer or spouse attaining the age of 65 years or section 25 (b) (1) (C) for blind taxpayer or blind spouse) but not in excess of $2,500 in the case of a single individual or a married individual making a separate return and not in excess of $5,000 in the case of a joint return of husband and wife."

(D) By adding at the end of such section after example (4) the following new example:

Example (5). H and W make a joint return for the calendar year 1948, on which five exemptions are allowed (exclusive of exemptions under section 25 (b) (1) (B) or (C)), one for each taxpayer and three for their dependent minor children. The adjusted gross income of H and W in 1948 is $40,000. They pay during that year $9,000 for medical care, no part of which is compensated for by insurance or otherwise. The deduction allowable under section 23 (x) for the calendar year 1948 is $5,000, computed as follows:

Payment for medical care in 1948	$9,000
Less: 5 percent of $40,000 (adjusted gross income)	2,000
Excess of medical expenses in 1948 over 5 percent of adjusted gross income	7,000
Allowable deduction for 1948 ($1,250 multiplied by 5 exemptions allowed under section 25 (b) (1) (A) and (D) but not in excess of $5,000)	5,000

PAR. 11. There is inserted immediately preceding § 29.23 (y)–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

* * * * *

(e) *Repeal of deduction for blind individuals.* Effective with respect to taxable years beginning after December 31, 1947, section 23 (y) of such Code (relating to special deduction for blind individuals) is repealed.

PAR. 12. Section 29.23 (y)–1, as amended by Treasury Decision 5451, approved April 17, 1945, is further amended as follows:

(A) By inserting immediately after "December 31, 1943," in the first sentence the words "and before January 1, 1948,".

(B) By adding at the end of such section the following: "For additional exemptions allowed for taxable years beginning after December 31, 1947, for blind taxpayer or blind spouse, see section 25 (b) (1), as amended by the Revenue Act of 1948, and § 29.25–3 (d)."

PAR. 13. There is inserted immediately preceding § 29.23 (aa)–1 the following:

SEC. 302. STANDARD DEDUCTION. (Revenue Act of 1948, Title III.)

(a) *Increase of standard deduction in case of joint return or return by unmarried person.* Section 23 (aa) (1) (A) of the Internal Revenue Code (relating to the standard deduction) is hereby amended to read as follows:

(A) *Adjusted gross income $5,000 or more.* If his adjusted gross income is $5,000 or more, the standard deduction shall be $1,000 or an amount equal to 10 per centum of the adjusted gross income, whichever is the lesser, except that in the case of a separate return by a married individual, the standard deduction shall be $500.

(b) *Election by husband and wife.* Section 23 (aa) (4) of such Code is hereby amended to read as follows:

(4) *Husband and wife.* In the case of husband and wife, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction.

(c) *Determination of status.* Section 23 (aa) of such Code is hereby amended by adding at the end thereof the following new paragraph:

(6) *Determination of status.* For the purposes of this subsection:

(A) The determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

SEC. 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title III.)

The amendments made by sections * * * 302, * * * shall be applicable with respect to taxable years beginning after December 31, 1947. * * * For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 14. Section 29.23 (aa)–1, as added by Treasury Decision 5425, is amended as follows:

(A) By striking out the third and fourth sentences of paragraph (a) and inserting in lieu thereof the following:

§ 29.23 (aa)–1 *Standard deduction*—(a) *General.* * * * In the case of taxpayers whose adjusted gross income is $5,000 or more, the standard deduction for taxable years beginning after December 31, 1943, and before January 1, 1948, is $500. In the case of such taxpayers, the standard deduction for taxable years beginning after December 31, 1947, is $1,000 or 10 percent of adjusted gross income, whichever is the lesser, except that in the case of a separate return by a married individual, the standard deduction is $500. For the purpose of the preceding sentence, the determination of whether an individual is married shall be made as of the close of his taxable year unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and an individual shall be considered as married even though living apart from his spouse unless legally separated under a decree of divorce or separate maintenance. In the case of taxpayers whose adjusted gross income is less than $5,000, the standard deduction is about 10 percent of the adjusted gross income upon which the tax is determined in the table provided in section 400. A taxpayer having adjusted gross income of less than $5,000, who does not elect to pay the tax imposed by Supplement T, may not take the standard deduction.

In the case of a joint return, there is only one adjusted gross income and only one standard deduction. For example, if a husband has an income of $15,000 and his spouse has an income of $12,000 for the taxable year for which they file a joint return, and they have no deductions allowable for the purposes of computing adjusted gross income, the adjusted gross income is $27,000, and the standard deduction, if the joint return is for a taxable year beginning before January 1, 1948, is $500 (and not $1,000) and if the joint return is for a taxable year begin-

ning after December 31, 1947, is $1,000 (and not $2,000).

(B) By striking out the second sentence of subparagraph (1) of paragraph (b) and inserting in lieu thereof the following: "Such taxpayer shall so signify on his return by claiming thereon the deduction in the amount provided for in section 23 (aa) instead of itemizing the deductions allowable under section 23 other than those specified in section 22 (n). The amount to be claimed on the return by such taxpayer for taxable years beginning after December 31, 1943, and before January 1, 1948, is $500 and for taxable years beginning after December 31, 1947, is $1,000 or 10 percent of the adjusted gross income, whichever is lesser (except that in the case of a separate return by a married individual, the amount is $500)."

(C) By striking from the first sentence of paragraph (c) the expression "living together" and inserting in lieu thereof the following "(except as qualified below)".

(D) By striking out the last two sentences of the third paragraph of (c) and inserting in lieu thereof the following: "For taxable years beginning before January 1, 1948, the restriction applies only in the case of a husband and wife living together and for such purpose the spouses are considered as living together unless they are permanently separated. For taxable years beginning after December 31, 1947, the restriction applies unless the spouses are legally separated under a decree of divorce or separate maintenance. The determination of whether an individual is married and living with his spouse for the purpose of the standard deduction for taxable years beginning before December 31, 1947, shall be made as of the last day of such individual's taxable year unless his spouse dies during such taxable year, in which event the determination shall be made as of the date of death of such spouse. Similarly, the determination of whether an individual is married (whether or not living with his spouse unless legally separated under a decree of divorce or separate maintenance) for the purpose of the allowance of the standard deduction for taxable years beginning after December 31, 1947, shall be made as of the last day of such individual's taxable year unless his spouse dies during such taxable year, in which event the determination shall be made as of the date of death of such spouse."

(E) By adding at the end of such section the following:

Example (3). Taxpayer A and his wife B both make their returns on a calendar year basis. In July 1948 they enter into a separation agreement and thereafter live apart but no decree of divorce or separate maintenance is issued until March 1949. If A itemizes and claims his actual deductions on his return for the calendar year 1948 B may not elect the standard deduction on her return for such year since B is considered as married to A (although permanently separated by agreement) on the last day of 1948.

PAR. 15. There is inserted immediately preceding § 29.25–1 the following:

SEC. 201. ADDITIONAL CREDITS AGAINST NET INCOME FOR NORMAL TAX AND SURTAX. (Revenue Act of 1948, Title II.)

Paragraphs (1) and (2) of section 25 (b) of the Internal Revenue Code are hereby amended to read as follows:

(1) *Credits.* There shall be allowed for the purposes of both the normal tax and the surtax, the following credits against net income:

(A) An exemption of $600 for the taxpayer; and an additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(B) (i) An additional exemption of $600 for the taxpayer if he has attained the age of 65 before the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(C) (i) An additional exemption of $600 for the taxpayer if he is blind at the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this clause the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death;

(iii) For the purposes of this subparagraph an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(D) An exemption of $600 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $500, except that the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse under section 51 for the taxable year beginning in such calendar year.

(2) *Determination of status.* For the purposes of this subsection:

(A) The determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 16. Section 29.25–3, as amended by Treasury Decision 5517, is hereby amended by striking out that portion designated as "(c)" and inserting in lieu thereof the following:

§ 29.25–3 *Personal exemption, surtax exemptions, and exemptions for both normal tax and surtax.* * * *

(c) *Taxable years beginning after December 31, 1945, and before January 1, 1948.* For the purpose of the normal tax and surtax on individuals for taxable years beginning after December 31, 1945, and before January 1, 1948, there are allowed as credits against net income the exemptions allowed by section 25 (b) prior to its amendment by the Revenue Act of 1948. Except that such exemptions are not designated "surtax exemptions" for such years and that they are allowable for the purpose of the normal tax as well as the surtax for such years, the provisions of paragraph (b) of this section are applicable thereto.

(d) *Taxable years beginning after December 31, 1947*—(1) *In general.* For the purposes of the normal tax and the surtax on individuals for taxable years beginning after December 31, 1947, there are allowed as credits against net income the exemptions specified in section 25 (b) as amended by the Revenue Act of 1948. Such credits include (i) the exemptions for an individual taxpayer and spouse (the so-called personal exemptions), (ii) the additional exemptions for a taxpayer attaining the age of 65 years and spouse attaining the age of 65 years (the so-called old-age exemptions), (iii) the additional exemptions for a blind taxpayer and a blind spouse, and (iv) the exemptions for dependents of the taxpayer.

(2) *Exemptions for individual taxpayer and spouse (so-called personal exemptions).* There are allowed by section 25 (b) (1) (A) an exemption of $600 for the taxpayer and an additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. Since, in the case of a joint return, there are two taxpayers (although under section 51 (b) there is only one income for the two taxpayers on such return—i. e., their aggregate income), two exemptions of $600 are allowed on such return, one for each taxpayer spouse. If in any case a joint return is made by the taxpayer and his spouse, no exemption is allowed any other person for such spouse even though such other person would have been entitled to claim an exemption for such spouse as a dependent if such joint return had not been made.

(3) *Exemptions for taxpayer attaining the age of 65 and spouse attaining the age of 65 (so-called old-age exemptions).* Section 25 (b) (1) (B) provides an additional exemption of $600 for the taxpayer if he has attained the age of 65 before the close of his taxable year. An additional exemption of $600 is also allowed to the taxpayer for his spouse if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the taxable year of the taxpayer and, for the calendar year in which the taxable year of the taxpayer begins, the spouse has no gross income and is not the dependent of another taxpayer. If a husband and wife make a joint return,

an old-age exemption of $600 will be allowed as to each taxpayer spouse who has attained the age of 65 before the close of the taxable year for which the joint return is made. The exemptions under section 25 (b) (1) (B) are in addition to the exemptions for the taxpayer and spouse under section 25 (b) (1) (A).

In determining the age of an individual for the purposes of the exemption for old age, the last day of the taxable year of the taxpayer is the controlling date. Thus, in the event of a separate return by a husband, no additional exemption for old age may be claimed for his spouse unless such spouse has attained the age of 65 on or before the close of the taxable year of the husband. In no event shall the additional exemption for old age be allowed on a separate return of the taxpayer with respect to a spouse who dies before attaining the age of 65 even though such spouse would have attained the age of 65 before the close of the taxable year of the taxpayer. For the purposes of the old-age exemption, an individual attains the age of 65 on the first moment of the day preceding his sixty-fifth birthday. Accordingly, an individual whose sixty-fifth birthday falls on January 1 in a given year attains the age of 65 on the last day of the calendar year immediately preceding.

(4) *Exemptions for the blind.* Section 25 (b) (1) (C) provides an additional exemption of $600 for the taxpayer if he is blind at the close of his taxable year. An additional exemption is also allowed to the taxpayer for his spouse if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. The determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death.

The exemptions for the blind, applicable to taxable years beginning after December 31, 1947, replace the special deduction for the blind provided in section 23 (y) prior to its repeal by the Revenue Act of 1948. The exemptions are in addition to the exemptions for the taxpayer and spouse under section 25 (b) (1) (A) and are also in addition to the exemptions under section 25 (b) (1) (B) for taxpayers and spouses attaining the age of 65 years. Thus, a single individual who has, before the close of his taxable year, attained the age of 65 years and who is blind at the close of his taxable year is entitled, in addition to the so-called personal exemption of $600, to two further exemptions, each of $600, one by reason of his age and the other by reason of his blindness. If a husband and wife make a joint return, an exemption of $600 for the blind will be allowed as to each taxpayer spouse who is blind at the close of the taxable year for which the joint return is made.

A taxpayer claiming an exemption allowed by section 25 (b) (1) (C) for a blind taxpayer or a blind spouse shall, if the individual for whom the exemption is claimed is not totally blind as of the last day of the taxable year of the taxpayer (or in the case of a spouse who dies during such taxable year as of the time of such death), attach to his return a certificate from a physician skilled in the diseases of the eye or a registered optometrist stating that as of the applicable status determination date in the opinion of such physician or optometrist (i) the central visual acuity of the individual for whom the exemption is claimed did not exceed 20/200 in the better eye with correcting lenses or (ii) such individual's visual acuity was accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. If such individual is totally blind as of the status determination date there shall be attached to the return a statement by the person or persons making the return setting forth such fact.

(5) *Exemptions for dependents.* Section 25 (b) (1) (D) allows to a taxpayer an exemption of $600 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $500, who receives more than one-half of his support from the taxpayer for such calendar year and who does not file a joint return with his spouse. For the purposes of this credit a dependent is a person who is related to the taxpayer within one of the following relationships: child; the descendants of such child; stepchild; brother; sister; brother or sister by the half blood; stepbrother or stepsister; parent; the ancestors of such parent; stepfather or stepmother; son or daughter of the taxpayer's brother or sister; brother or sister of the taxpayer's father or mother; son-in-law; daughter-in-law; father-in-law; mother-in-law; brother-in-law; or sister-in-law. In the case of a joint return it is not necessary that the prescribed relationship exist between the person claimed as a dependent and the spouse who furnishes the support; it is sufficient if the prescribed relationship exists with respect to either spouse. Thus, a husband and wife making a joint return may claim as a dependent a daughter of the wife's brother (wife's niece) even though the husband is the one who furnishes the chief support. The relationship of affinity once existing will not terminate by divorce or the death of a spouse. A legally adopted child of a person shall be considered a child of such person by blood. A citizen or subject of a foreign country may not be claimed as a dependent, unless he is a resident of the United States, Canada, or Mexico at some time during the calendar year in which the taxable year of the taxpayer begins. Whether or not over half of a person's support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer shall be determined by reference to the amount of expense incurred by the taxpayer for such support. A payment to a wife which is includible under section 22 (k) or section 171 in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent.

The only exemption allowed for a dependent of the taxpayer is that provided by section 25 (b) (1) (D). The exemptions provided by section 25 (b) (1) (B) (old-age exemptions) and section 25 (b) (1) (C) (exemptions for the blind) are allowed only for the taxpayer or his spouse. Thus, if a taxpayer provides the entire support of his father, who meets all the requirements of a dependent under section 25 (b) (3) and who is over the age of 65 years, the taxpayer is entitled only to the one exemption under section 25 (b) (1) (D) of $600 for his father as a dependent, and is not entitled to any additional exemption because of his father's age.

(6) *Determination of husband and wife status.* For the purpose of determining the right of an individual to claim an exemption for his spouse under section 25 (b) the determination of whether such individual is married shall be made as of the close of his taxable year, unless his spouse dies during such year, in which case such determination shall be made as of the time of such death. An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

PAR. 17. There is inserted immediately preceding § 29.51–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

* * * * *

(c) *Requirement of returns*—(1) *Individual returns.* Section 51 (a) of the Internal Revenue Code (relating to the requirement of individual returns) is hereby amended by striking out "$500" and inserting in lieu thereof "$600".

* * * * *

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

SEC. 303. JOINT RETURNS OF HUSBAND AND WIFE. (Revenue Act of 1948, Title III.)

Section 51 (b) of the Internal Revenue Code (relating to joint returns) is hereby amended to read as follows:

(b) *Husband and wife*—(1) *In general.* A husband and wife may make a single return jointly. Such a return may be made even though one of the spouses has neither gross income nor deductions. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

(2) *Nonresident alien.* No joint return may be made if either the husband or wife at any time during the taxable year is a nonresident alien.

(3) *Different taxable years.* No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day, and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year, nor if the taxable year of either spouse is a fractional part of a year under section 47 (a).

(4) *Joint return after death.* In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (A) no return for the taxable year has been made

by the decedent, (B) no executor or administrator has been appointed, and (C) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(5) *Determination of status.* For the purposes of this section:

(A) The status as husband and wife of two individuals having taxable years beginning on the same day shall be determined:

(i) If both have the same taxable year—as of the close of such year; and

(ii) If one dies before the close of the taxable year of the other—as of the time of such death; and

(B) An individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(6) *Tax in case of joint return.* For determination of combined normal tax and surtax under section 11 and section 12 (b) in case of joint return under this subsection, see section 12 (d). For tax in case of joint return of husband and wife electing to pay the tax under Supplement T, see section 400.

SEC. 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title III.)

The amendments made by sections * * * 303, * * * shall be applicable with respect to taxable years beginning after December 31, 1947. The amendment made by section 303 shall also be applicable to taxable years of both husband and wife beginning on the same day in 1947 if at least one of such taxable years ends in 1948. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 18. Section 29.51–1, as amended by Treasury Decision 5600, approved February 2, 1948, is further amended as follows:

(A) By inserting before the period in the heading of subparagraph (3) of paragraph (a) the following: *", and before January 1, 1948"*.

(B) By inserting in subparagraph (3) of paragraph (a) after "December 31, 1945," the following: "and before January 1, 1948,".

(C) By inserting after subparagraph (3) of paragraph (a) a new subparagraph (4) to read as follows:

(4) *Taxable years beginning after December 31, 1947.* For each taxable year beginning after December 31, 1947, a return of income shall be made by each citizen of the United States, whether residing at home or abroad, and every individual residing within the United States though not a citizen thereof, regardless of family or marital status, if such citizen or resident has for such taxable year a gross income of $600 or more, or a gross income in excess of the credit allowed by section 25 (b) prorated as provided in section 47 (e).

(D) By striking out paragraph (b) and inserting in lieu thereof the following:

(b) *Joint returns*—(1) *In general.* For taxable years beginning prior to January 1, 1944, a husband and wife, if living together at the close of the taxable year, may elect to make a joint return (see section 51 (b)) even though one has no gross income. For taxable years beginning after December 31, 1943, a husband and wife occupying the marital status as of the last day of the taxable year may elect to make a joint return even though one of the spouses has no gross income or deductions, and even though the spouses are not living together at any time during the taxable year. However, for the purpose of filing a joint return for taxable years with respect to which the amendments made to section 51 (b) by section 303 of the Revenue Act of 1948 are applicable (taxable years beginning after December 31, 1947, and taxable years of both husband and wife beginning on the same day in 1947 if at least one of such taxable years ends in 1948), an individual legally separated from his spouse under a decree of separate maintenance shall not be considered as married.

A joint return may not be made by a husband and wife for a taxable year if a separate return has been filed by one of the spouses and the time for filing the return of such spouse has expired. Similarly, if a joint return is filed, separate returns may not be made by the spouses after the time for filing the return of either has expired. See, however, subparagraph (2) of this paragraph for the right of an executor to file a late separate return for a deceased spouse and thereby disaffirm a timely joint return made by the surviving spouse.

If a joint return is made, the gross income and adjusted gross income of husband and wife on the joint return are computed in an aggregate amount and the deductions allowed and the net income are likewise computed on an aggregate basis. Deductions limited to a percentage of the adjusted gross income, such as the deduction for charitable contributions under section 23 (o), will be allowed with reference to such aggregate adjusted gross income. Similarly, in the case of a joint return, losses of husband and wife from sales or exchanges of capital assets are combined and such combined losses are allowed under section 117 (d) (2) only to the extent of the combined gains of the spouses from such sales or exchanges, plus the net income (or adjusted gross income if tax is computed under Supplement T) or $1,000 whichever is smaller. The "net income" referred to in section 117 (d) (2) is the net income computed before reduction by one-half for the purposes of income splitting under section 12 (d) and is such net income computed without regard to gains and losses from sales or exchanges of capital assets. Although there are two taxpayers on a joint return, there is only one net income. The tax on the joint return shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. A joint return may not be made if either the husband or wife at any time during the taxable year is a nonresident alien. For computation of tax on the basis of the splitting of income in the case of a joint return for taxable years beginning after December 31, 1947, see § 29.12–4. For tax in the case of a joint return of husband and wife electing to pay the tax under Supplement T, see §§ 29.400–1 and 29.401–1.

A joint return of a husband and wife (if not made by an agent) shall be signed by both spouses. An oath is not necessary, but both spouses shall verify the return as provided in section 51. If signed by one spouse as agent for the other, authorization for such action must accompany the return. The spouse acting as agent for the other shall, with the principal, assume the responsibility for making the return and incur liability for the penalties provided for erroneous, false, or fraudulent returns. See § 29.51–2.

(2) *Joint return after death.* Since in general a joint return may not be made if husband and wife have different taxable years, and since the taxable year of an individual closes as of the date of his death (see § 29.47–1), no joint return may be made for any taxable year, except as provided by section 51 (b), as amended by the Revenue Act of 1948, in the case of the death of one or both spouses prior to the last day of such taxable year. Section 51 (b), as amended by the Revenue Act of 1948, provides with respect to taxable years of spouses beginning after December 31, 1947 (and with respect to taxable years of spouses beginning on the same day in 1947 if at least one of such taxable years ends in 1948), that a joint return may be made for the survivor and the deceased spouse or for both deceased spouses if the taxable years of such spouses begin on the same day and end on different days only because of the death of either or both. Thus, if a husband and wife make their returns on a calendar year basis, and the wife dies on August 1, 1948, a joint return may be made with respect to the calendar year 1948 of the husband and the taxable year of the wife beginning on January 1, 1948, and ending with her death on August 1, 1948. Similarly, if husband and wife both make their returns on the basis of a fiscal year beginning on July 1 and the wife dies on October 1, 1947, a joint return may be made with respect to the fiscal year of the husband beginning on July 1, 1947, and ending on June 30, 1948, and with respect to the taxable year of the wife beginning on July 1, 1947, and ending with her death on October 1, 1947. For the purposes of this subparagraph the status of two individuals as husband and wife, if one dies prior to the close of the taxable year of the other, shall be determined as of the time of such death.

The provision allowing a joint return to be made for the taxable year in which the death of either or both spouses occurs is subject to two exceptions. The first exception is that if the surviving spouse remarries before the close of his taxable year, he may not make a joint return with the first spouse who died during the taxable year. In such a case, however, the surviving spouse may make a joint return with his new spouse provided that the other requirements of section 51 (b) are met. The second exception is that the surviving spouse may not make a joint return with the deceased spouse if the taxable year of either spouse is a fractional part of a year under sec-

tion 47 (a) resulting from a change of accounting period. For example, if a husband and wife make their returns on the calendar year basis and the wife dies on March 1, 1948, and thereafter the husband receives permission to change his accounting period to a fiscal year beginning July 1, 1948, no joint return may be made for the short taxable year ending June 30, 1948. Similarly, if a husband and wife who make their returns on a calendar year basis receive permission to change to a fiscal year beginning July 1, 1948, and the wife dies on June 1, 1948, no joint return may be made for the short taxable year ending June 30, 1948.

Section 51 (b) (4), as added by the Revenue Act of 1948, provides for the method of making a joint return in the case of the death of one spouse or both spouses where the return is for taxable years beginning on the same day after December 31, 1947, or for the taxable years beginning on the same day in 1947 if at least one of such taxable years ends in 1948. The general rule is that, in the case of the death of one spouse, or of both spouses, the joint return with respect to the decedent may be made only by his executor or administrator. By the term executor or administrator is meant the person who is actually appointed to such office and not merely a person who may be in charge of the property of the decedent. An exception is made from this general rule whereby, in the case of the death of one spouse, the joint return may be made by the surviving spouse with respect to both him and the decedent if all the following conditions exist:

(i) No return has been made by the decedent for the taxable year in respect to which the joint return is made.

(ii) No executor or administrator has been appointed at or before the time of making such joint return.

(iii) No executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse.

These conditions are to be applied with respect to the return for each of the taxable years of the decedent for which a joint return may be made if more than one such taxable year is involved. Thus, in the case of husband and wife on the calendar year basis, if the wife dies in February 1949, a joint return for the husband and wife for 1948 may be made if the conditions set forth above are satisfied with respect to such return. A joint return may also be made by the survivor for both himself and the deceased spouse for the calendar year 1949 if it is separately determined that the conditions set forth above are satisfied with respect to the return for such year. If, however, the deceased spouse should, prior to her death, make a return for 1948, the surviving spouse may not thereafter make a joint return for himself and the deceased spouse for 1948.

If an executor or administrator is appointed at or before the time of making the joint return or before the last day prescribed by law for filing the return of the surviving spouse, the surviving spouse cannot make a joint return for himself and the deceased spouse whether or not a separate return for the deceased spouse is made by such executor or administrator. In such a case, any return made solely by the surviving spouse shall be treated as his separate return. The joint return, if one is to be made, must be made by both the surviving spouse and the executor or administrator. In determining whether an executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse, an extension of time for making the return is included.

If the surviving spouse makes the joint return provided for above, and thereafter an executor or administrator of the decedent is appointed, the executor or administrator may disaffirm such joint return. This disaffirmance, in order to be effective, must be made within one year after the last day prescribed by law for filing the return of the surviving spouse (including any extension of time for filing such return) and must be made in the form of a separate return for the taxable year of the decedent with respect to which the joint return was made. In the event of such proper disaffirmance the return made by the survivor shall constitute his separate return, that is, the joint return made by him shall be treated as his return and the tax thereon shall be computed by excluding all items properly includible in the return of the deceased spouse. The separate return made by the executor or administrator shall constitute the return of the deceased spouse for the taxable year.

The time allowed the executor or administrator to disaffirm the joint return by the making of a separate return does not establish a new due date for the return of the deceased spouse. Accordingly, the provisions of sections 291 and 294, relating to delinquent returns and delinquency in payment of tax, are applicable to such return made by the executor in disaffirmance of the joint return.

PAR. 19. Section 29.51–3, as amended by Treasury Decision 5425, is further amended as follows:

(A) By inserting before the period in the heading of paragraph (b) the following: *", and before January 1, 1948"*.

(B) By inserting in paragraph (b) after "December 31, 1943," the following: "and before January 1, 1948,".

(C) By inserting after paragraph (b) a new paragraph (c) to read as follows:

(c) *Taxable years beginning after December 31, 1947.* For taxable years beginning after December 31, 1947, an individual, although a minor, who is single, is required to render a return of income if he has gross income (including compensation for personal services includible in his gross income under section 22 (m) (1)) of $600 or over for the taxable year regardless of the amount of his net income. If the aggregate of the gross income of such a minor from any property which he possesses and from any funds held in trust for him by a trustee or guardian and from his earnings is at least $600, regardless of the amount of his net income, a return, as in the case of any other individual, must be made by him or for him by his guardian or other person charged with the care of his person or property. See § 29.142–2. If he is married, see § 29.51–1.

PAR. 20. There is inserted immediately preceding § 29.58–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

(a) *Declaration of estimated tax.* Section 58 (a) of the Internal Revenue Code (relating to requirement of declaration of estimated tax) is hereby amended to read as follows:

(a) *Requirement of declaration.* Every individual (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable) shall, at the time prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if:

(1) His gross income from wages (as defined in section 1621) can reasonably be expected to exceed the sum of $4,500 plus $600 with respect to each exemption provided in section 25 (b); or

(2) His gross income from sources other than wages (as defined in section 1621) can reasonably be expected to exceed $100 for the taxable year and his gross income to be $600 or more.

* * * * *

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 21. Section 29.58–2, as amended by Treasury Decision 5517, is further amended as follows:

(A) By striking out the headings *"Declarations of estimated tax—taxable years beginning after December 31, 1944*—(a) *General."* and inserting in lieu thereof the following: *"Declarations of estimated tax*—(a) *Taxable years beginning after December 31, 1944, and before January 1, 1948*—(1) *General."*

(B) By inserting after "December 31, 1944," in the first sentence thereof "and before January 1, 1948,".

(C) By striking out the designations (1), (2) and (3) where first appearing in the first sentence and inserting in lieu thereof (i), (ii) and (iii).

(D) By striking out the designations (1) and (2) where last appearing in the first sentence and inserting in lieu thereof (*a*) and (*b*).

(E) By striking out the designation "(b)" preceding the heading *"Short taxable years."* and inserting in lieu thereof "(2)".

(F) By adding at the end of such section the following paragraph:

(b) *Taxable years beginning after December 31, 1947*—(1) *General.* A declaration of estimated tax shall, for taxable years beginning after December 31, 1947, be made by (i) every citizen of the United States, whether residing at home or abroad, (ii) every individual residing in the United States though not a citizen thereof, and (iii) every nonresident alien who is a resident of Canada or Mexico and who has wages subject to withholding at the source under section 1622, if such citizen or resident or alien can reasonably be expected to have for such taxable year:

(*a*) Gross income from wages subject to withholding under section 1622 in excess of the sum of $4,500 plus $600 for each exemption allowable as a credit under section 25 (b); or

(*b*) Gross income of more than $100 from sources other than wages subject to withholding under section 1622 and total gross income of $600 or more.

In the case of a husband and wife, whether or not they are living together, a joint declaration of estimated tax may be made if the gross income of either spouse meets the requirements of section 58 (a). If the gross income of each spouse meets the requirements of section 58 (a), either a joint declaration must be made or a separate declaration must be made by each. For the purpose of determining whether a declaration of estimated tax is required under the provisions of section 58 (a), a married person may not take into account the exemption of his spouse, if his spouse has, or is reasonably expected to have, gross income.

In estimating his gross income for the taxable year a parent should not take into account the income of his minor child. Such income is not includible in the gross income of the parent. See section 22 (m).

A nonresident alien who is a resident of Canada or Mexico, who enters into and leaves the United States at frequent intervals, and who has wages subject to withholding under the provisions of section 1622 is required to file a declaration of estimated tax if his gross income meets the requirements of section 58 (a). In the case of a nonresident alien gross income means only gross income from sources within the United States. (Section 212 (a).) As to what constitutes gross income from sources within the United States, see section 119 and the regulations thereunder. Thus, for example, a nonresident alien over the age of 65 years, living in Mexico with his wife and one dependent child throughout 1948, makes his return on a calendar year basis. His wife and child are also nonresident aliens. He is employed as an executive in El Paso, Texas, at a salary of $8,000 per annum and enters and leaves the United States at frequent intervals in pursuit of such employment. Neither husband nor wife has any reasonable expectation of any other income from United States sources. Since his wages derived from sources within the United States in 1948 can reasonably be expected to amount to more than $4,500 plus $2,400 (the aggregate of 4 exemptions, including one exemption for old age), or $6,900, a declaration of estimated tax must be filed for such resident of Mexico for 1948.

An estate or trust, though generally taxed as an individual, is not within the scope of the system of current payment of the tax, and hence is not required to file a declaration.

The application of these provisions may be illustrated by the following examples:

Example (*1*). H, a taxpayer making his return on the calendar year basis, is married and has two dependent children. Neither his wife nor children have any source of income. H's wife has been blind for several years and it is reasonable to assume that she will not regain her sight in 1948. H's salary from January 1, to June 30, 1948, is at the annual rate of $7,000. However, effective July 1, 1948, his annual salary is increased to $9,000 and under the facts then existing it is reasonable to assume that his salary for the remaining portion of 1948 will remain unchanged and that his total salary for the year will, therefore, be $8,000. Since such amount is in excess of $4,500 plus $3,000 (the aggregate of 5 exemptions, including the two exemptions for the blind spouse), or $7,500, H is required to file a declaration of estimated tax for 1948. As to when such declaration is required to be filed, see § 29.58–7 (b).

Example (*2*). P, a professional man engaged in the practice of his profession on his own account, has gross income of $400 from such profession for the two months of January and February 1948. It can reasonably be expected that he will have no income during 1948 from any other source. Since P has gross income which can for 1948 reasonably be expected to exceed $600 and such income does not constitute wages subject to withholding, he is required to file a declaration of estimated tax regardless of his marital status and regardless of the number of exemptions to which he may be entitled for that year.

Example (*3*). S has been regularly employed for many years prior to January 1, 1948, at which date his weekly wage is $50. S also owns stock in a corporation from which he has derived regularly for many years prior to 1948 annual dividends ranging from $120 to $160. In view of the fact that for 1948 S can reasonably be expected to receive gross income of $600 or more, which includes more than $100 of income from sources other than wages as defined in section 1621 (a), he is required to make a declaration of estimated tax for such year regardless of his marital status or the number of exemptions to which he may be entitled.

Example (*4*). T, a married taxpayer, who makes his return on the calendar year basis, is employed at the beginning of 1948 at an annual salary of $7,500, which, on the basis of facts then existing, will, it is expected, not undergo any change throughout 1948. His wife owns stock upon which dividends ranging from $75 to $100 have been paid regularly during years prior to 1948. T has two dependent children, one of whom has no source of income in 1948; the other child, however, is employed on a part-time basis and may reasonably be expected to receive compensation of $600 in 1948. T also contributes the major portion of the support of his mother whose only source of income is approximately $100 per year from a trust fund. Under these facts for the purpose of determining whether he is required to file a declaration, T may take into account only three exemptions, one for himself, one for his mother, and one for the child expected to receive less than $500 gross income in 1948. Since his expected salary of $7,500 exceeds the sum of $4,500 plus $1,800 (3 exemptions), or $6,300, T is required to file a declaration of estimated tax for 1948. In computing his estimated tax on a separate declaration, T may not take into account any exemption for his wife since she is reasonably expected to have gross income in 1948. If, however, a joint declaration is made and the tax is estimated on the basis of the aggregate net income, account may be taken of an exemption for the wife.

(2) *Short taxable years.* For the purpose of determining whether the anticipated income for a short taxable year necessitates the filing of a declaration, such income shall be placed on an annual basis in the manner prescribed in section 47 (c) (1). Thus, for example, a taxpayer who changes from a calendar year basis to a fiscal year basis beginning July 1, 1948, will have a short taxable year beginning January 1, 1948, and ending June 30, 1948. If his anticipated gross income for such short taxable year consists solely of wages (as defined in section 1621 (a)) in the amount of $3,000, his total gross income and his gross income from such wages for the purpose of determining whether a declaration is required is $6,000, the amount obtained by placing anticipated income of $3,000 upon an annual basis. Hence, assuming such taxpayer is single and has no dependents, he is required to file a declaration of estimated tax for the short taxable year since his anticipated gross income from wages when placed upon an annual basis is in excess of $5,100 ($4,500 plus $600).

PAR. 21½. Section 29.58–3, as amended by Treasury Decision 5419, approved November 25, 1944, is further amended as follows:

(A) By striking from the second sentence of the third paragraph of (a) the words "living together".

(B) By adding immediately after such second sentence the following parenthetical sentence: "(See, however, § 29.23 (aa)–1 (c) for exceptions where spouses are legally separated or are not living together.)"

PAR. 22. Section 29.58–4, as amended by Treasury Decision 5419, is further amended by adding at the end of the first paragraph thereof the following sentences: "However, if it is reasonable for a surviving spouse to assume that there will be filed a joint return for himself and the deceased spouse for taxable years which include the last taxable year of the deceased spouse, he may, in making a separate declaration for his taxable year which includes the period comprising such last taxable year of his spouse, estimate net income on an aggregate basis and compute his estimated tax in the same manner as though a joint declaration had been filed. For computation of tax in case of a joint return for taxable years to which splitting of income is applicable, see § 29.12–4."

PAR. 23. Section 29.58–7, as added by Treasury Decision 5419, is amended by striking out the third sentence of paragraph (f) and inserting in lieu thereof the following: "An amended declaration may also be made based upon a change in the number of exemptions (or, for taxable years beginning before January 1, 1946, a change in the number of surtax exemptions) to which the taxpayer may be entitled for the then current taxable year. An amended declaration may be filed jointly by husband and wife even though separate declarations have previously been filed."

PAR. 24. There is inserted immediately preceding § 29.108–1 the following:

SEC. 601. FISCAL YEAR TAXPAYERS. (Revenue Act of 1948, Title VI.)

Section 108 of the Internal Revenue Code is hereby amended by striking out "(d)" at the beginning of subsection (d) and inserting in lieu thereof "(e)", and by inserting after subsection (c) the following:

(d) *Taxable years of individuals beginning in 1947 and ending in 1948.* In the case of a taxable year of an individual beginning in 1947 and ending in 1948, the tax imposed by

sections 11, 12, and 400 shall be an amount equal to the sum of:

(1) That portion of a tax, computed as if the law applicable to taxable years beginning on January 1, 1947, were applicable to such taxable years, which the number of days in such taxable year prior to January 1, 1948, bears to the total number of days in such taxable year, plus

(2) That portion of a tax, computed as if the law applicable to taxable years beginning on January 1, 1948, were applicable to such taxable year, which the number of days in such taxable year after December 31, 1947, bears to the total number of days in such taxable year.

PAR. 25. There is added immediately after § 29.108–2 the following section:

§ 29.108–3 *Computation of tax of individuals for taxable years beginning in 1947 and ending in 1948.* For a taxable year beginning in 1947 and ending in 1948, the normal tax, surtax, and optional tax imposed by sections 11, 12, and 400 upon taxpayers other than corporations shall be computed under section 108 (d), as amended by the Revenue Act of 1948, as follows:

(a) That portion of a tentative tax computed under the law applicable to taxable years beginning on January 1, 1947, which the number of days prior to January 1, 1948, in the taxable year of the taxpayer bears to the total number of days in such taxable year and

(b) That portion of a tentative tax computed under the law applicable to taxable years beginning on January 1, 1948, which the number of days after December 31, 1947, in the taxable year of the taxpayer bears to the total number of days in such taxable year.

The provisions of section 108 (d) apply to estates, trusts, and nonresident alien individuals whose tax is computed under sections 11 and 12.

The provisions of section 108 (d) apply to a taxable year beginning in 1947 and ending in 1948, whether or not such taxable year is one of less than 12 months. In the case of a taxpayer who is subject to the provisions of section 108 (d) and who because of a change in accounting period has a taxable year of less than 12 months, the net income shall be placed on an annual basis under the provisions of section 47 (c) (1) for the purpose of both tentative tax computation under section 108 (d), or shall be computed under the exception in section 47 (c) (2) for the purpose of both such tentative tax computations. Regardless of the method adopted, the amounts of the tentative normal tax and surtax so computed upon the basis of 12 months' income shall be properly reduced under section 47 (c) in order to determine the tentative taxes under section 108 (d). However, in the case of a taxpayer who is subject to the provisions of section 108 (d) and who because of any reason other than a change in accounting period has a taxable year of less than 12 months, the net income shall not be placed on an annual basis under section 47 (c) (1) and shall not be computed under the exception in section 47 (c) (2).

In any case in which a taxpayer subject to the provisions of section 108 (d) has an excess of net long-term capital gains over net short-term capital losses, the alternative tax under section 117 (c) shall be an amount equal to the sum of the proper portions of the tentative taxes determined under section 108 (d), by computing each such tentative tax pursuant to the alternative tax computation provided in section 117 (c), regardless of whether either tentative tax so computed on the alternative basis is larger or smaller than the tentative tax computed without regard to section 117 (c).

In the case of a joint return of husband and wife for taxable years beginning on the same day in 1947 and ending on different days because of the death of either spouse or both spouses (where at least one of such taxable years ends in 1948), the number of days to be taken into account for the purpose of computing the portions of the tax under section 108 (d) (1) and (2) shall be the number of days prior to January 1, 1948, in the taxable year of the surviving spouse, the number of days after December 31, 1947, in the taxable year of the surviving spouse and the total number of days in the taxable year of the surviving spouse.

PAR. 26. There is inserted immediately preceding § 29.113 (a) (5)–1 the following:

SEC. 366. BASIS OF SURVIVING SPOUSE'S INTEREST IN COMMUNITY PROPERTY. (Revenue Act of 1948, Title III.)

(a) Section 113 (a) (5) of the Internal Revenue Code (relating to basis of property transmitted at death) is hereby amended by adding at the end thereof the following new sentences: "For the purposes of this paragraph the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State, Territory or possession of the United States or any foreign country shall be considered to be property 'acquired by' bequest, devise, or inheritance' from the decedent, if the death of the decedent was after December 31, 1947, and if at least one-half of the whole of the community interest in such property was includible in determining the value of the decedent's gross estate under section 811. In the case of property held by a decedent and his surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, if the value of any part of the surviving spouse's one-half share of such property was included in determining the value of the gross estate of the decedent and a tax under chapter 3 was payable upon the transfer of the net estate of the decedent, then for the purposes of this paragraph such part of such one-half share of the surviving spouse shall be considered to be property 'acquired by bequest, devise, or inheritance' from the decedent, if the death of the decedent was after the date of the enactment of the Revenue Act of 1942 and on or before December 31, 1947; but nothing in this sentence shall reduce basis below that which would exist if the Revenue Act of 1948 had not been enacted."

(b) If the allowance of a credit or refund of any overpayment of tax resulting from the application of this section is prevented on the date of the enactment of this act, or within one year from such date, by the operation of any law or rule of law (other than section 3761 of the Internal Revenue Code, relating to compromises), credit or refund of such overpayment may, nevertheless, be allowed or made if claim therefor is filed within one year from the date of the enactment of this act. No interest shall be paid on any overpayment resulting from the application of the last sentence of section 113 (a) (5) of such code, as amended by this section, if such overpayment is for a taxable year beginning before January 1, 1948.

PAR. 27. Section 29.113 (a) (5)–1 is amended as follows:

(A) By striking out the word "and" at the end of subparagraph (1) of paragraph (a).

(B) By striking out the period at the end of subparagraph (2) of paragraph (a) and inserting in lieu thereof "; and".

(C) By adding at the end thereof the the following subparagraph:

(3) To (i) the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property law of any State, Territory or possession of the United States or any foreign country if the death of the decedent is after December 31, 1947, and if at least one-half of the whole of the community interest in such property is includible in determining the value of the decedent's gross estate under section 811 (whether or not a tax under chapter 3, relating to the estate tax, is payable upon the net estate of the decedent) and (ii) such part of the surviving spouse's one-half share of property held by the decedent and surviving spouse as community property as was included in computing the value of the decedent's gross estate if the death of the decedent was after October 21, 1942, and before January 1, 1948, and if a tax under chapter 3, relating to the estate tax, was payable upon the net estate of the decedent. Section 113 (a) (5) shall not, however, be applied in cases described in (ii) above so as to reduce the basis of any property below that which would exist without the application of such section.

(D) By adding at the end of such section the following new paragraph:

(g) *Credit or refund to surviving spouse in community property States.* If on April 2, 1948, or within one year from such date, the allowance of credit or refund of any overpayment of tax to a surviving spouse resulting from the application of the last sentence of section 113 (a) (5) to any part of the surviving spouse's one-half share of community property is prevented by the operation of any law or rule of law (other than section 3761, relating to compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed within one year after April 2, 1948.

No interest shall be paid on any overpayment resulting from the application of the last sentence of section 113 (a) (5) to any part of the surviving spouse's one-half share of community property if such overpayment is for a taxable year beginning before January 1, 1948.

PAR. 28. There is inserted immediately preceding § 29.142–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

* * * * *

(c) *Requirement of returns.* * * *

(2) *Fiduciary returns.* Section 142 (a) of such Code (relating to the requirement of fiduciary returns) is hereby amended by striking out "$500" wherever appearing therein and inserting in lieu thereof "$600".

* * * * *

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 29. Section 29.142–1, as amended by Treasury Decision 5425, is further amended as follows:

(A) By inserting before the period in the heading of paragraph (b) the following: *", and before January 1, 1948"*.

(B) By inserting in paragraph (b) after "December 31, 1943," the following: "and before January 1, 1948,".

(C) By changing the designation of paragraph (c) from "(c)" to "(d)".

(D) By inserting after paragraph (b) a new paragraph to read as follows:

(c) *Taxable years beginning after December 31, 1947.* Every fiduciary, or at least one of joint fiduciaries, for taxable years beginning after December 31, 1947, must make a return of income:

(1) *Returns for individuals.* For the individual whose income is in his charge, if the gross income of such individual is $600 or over.

(2) *Returns for estates and trusts.* For the estate for which he acts if the gross income of such estate is $600 or over, and for the trust for which he acts if the gross income of such trust is $600 or over, or the net income of such trust, as computed under section 162, is $100 or over, or if any beneficiary of such estate or trust is a nonresident alien.

The return in subparagraph (1) of this paragraph shall be on Form 1040.

In subparagraph (2) of this paragraph a return is required on Form 1041.

PAR. 30. Section 29.142–2, as amended by Treasury Decision 5425, is further amended as follows:

(A) By inserting before the period in the heading of paragraph (b) the following: *", and before January 1, 1948"*.

(B) By inserting in paragraph (b) after "December 31, 1943," the following: "and before January 1, 1948".

(C) By adding after paragraph (b) the following new paragraph:

(c) *Taxable years beginning after December 31, 1947.* For taxable years beginning after December 31, 1947, a fiduciary acting as the guardian of a minor, or as the guardian or committee of an insane person, having a gross income of $600 or more for the taxable year, must make a return for such person on Form 1040, and pay the tax unless in the case of a minor the minor himself makes a return or causes it to be made. As to the use of the optional return, see § 29.51–2 (b).

PAR. 31. Section 29.143–3, as amended by Treasury Decision 5607, approved March 12, 1948, is further amended as follows:

(A) By striking out the second sentence of the next to the last paragraph and inserting in lieu thereof the following: "A nonresident alien individual who is engaged in trade or business within the United States at any time during the taxable year is entitled to the personal exemption for taxable years beginning before January 1, 1944, and to the normal-tax exemption and the surtax exemption allowed by section 25 (b) (1) (A) for taxable years beginning after December 31, 1943, and before January 1, 1946, and to the exemption allowed for himself by section 25 (b) (1) (A) for taxable years beginning after December 31, 1945."

(B) By adding before the period at the end of the third sentence of the next to the last paragraph the following: ", and before January 1, 1948, and to the exemptions allowed by section 25 (b) (1) (B), (C), and (D) for taxable years beginning after December 31, 1947".

(C) By striking out the fifth and sixth sentences of the next to the last paragraph and inserting in lieu thereof the following: "However, in the determination of the tax to be withheld at the source under section 143 (b) with respect to remuneration paid on or after July 1, 1943, for labor or personal services performed within the United States by a nonresident alien, the benefit of the personal exemption for taxable years beginning before January 1, 1944, or the normal-tax and surtax exemptions or exemption for both normal tax and surtax for taxable years beginning after December 31, 1943, shall be allowed, prorated upon a daily basis for the period of employment during any portion of which labor or personal services are performed within the United States by such alien. Such proration is on a basis of $1.40 per day for taxable years beginning prior to January 1, 1948, and on a basis of $1.70 per day for taxable years beginning after December 31, 1947. Thus, if A, a nonresident alien seaman employed by X Shipping Corporation, is paid in 1948 upon the termination of the voyage and such voyage covers 100 days, and A performs personal services within the United States during, or incident to, such voyage, the amount of $170 will be allocated as the portion of the exemption to be allowed as a credit against the remuneration of A for personal services performed within the United States during such voyage, and withholding shall be applied against the balance, if any, of such remuneration."

PAR. 32. There is inserted immediately preceding § 29.147–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

* * * * *

(c) *Requirement of returns.* * * *

(3) *Information returns.* Section 147 (a) of such Code (relating to returns of information) is hereby amended by striking out "$500" wherever appearing therein and inserting in lieu thereof "$600".

* * * * *

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 33. Section 29.147–1, as amended by Treasury Decision 5313, approved December 21, 1943, is further amended as follows:

(A) By amending the heading thereof to read as follows: *"Return of information as to payment of $600 ($500 for years prior to 1948)."*

(B) By striking out the first sentence and inserting in lieu thereof the following: "All persons making payment to another person of fixed or determinable income of $500 or more in any calendar year prior to 1948, and all persons making payment to another person of such income of $600 or more in any calendar year after 1947 must render a return thereof for such year on or before February 15 of the following year except as specified in §§ 29.147–3 to 29.147–5.

(C) By striking from the third sentence "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri".

PAR. 34. Section 29.147–2, as amended by Treasury Decision 5480, approved September 26, 1945, is amended so that such section shall read as follows:

§ 29.147–2 *Return of information as to payments to employees.* The names of all employees to whom payments are made of $500 or more in any calendar year prior to 1948, or of $600 or more in any calendar year after 1947, whether such total sum is made up of wages, salaries, annuities, commissions, or compensation in any other form, must be reported. In the case of any such payments of $500 or more paid during the calendar year 1945 or during any subsequent calendar year prior to 1948, and in the case of any such payments of $600 or more made during any calendar year after 1947, if a portion thereof constitutes wages subject to withholding under section 1622 and such portion is reported on Form W–2, the remainder of such payments must be reported on Form 1099. For example, if such payments made to an employee by his employer in 1948 amount to $700 and $400 thereof represents wages subject to withholding under section 1622, and the remaining $300 represents compensation not subject to withholding, for instance, advances or reimbursements for traveling or other expenses, or insurance premiums which in accordance with § 29.165–6 are income to the employee for the year in which the insurance is purchased, the $400 must be reported on Form W–2 and the $300 must be reported on Form 1099. Heads of branch offices and subcontractors employing labor, who keep the only complete record of payments therefor, should file returns of information in regard to such payments with the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri. When both main office and branch office have adequate records, the return should be filed by the main office.

For years prior to 1945, amounts distributed or made available under an employees' trust governed by the provisions of section 165 to any beneficiary in excess of the sum of his personal exemption and the amounts paid into the fund by him must be reported by the trustee. For the calendar year 1945 and subsequent calendar years amounts distributed or made available under an employees' trust governed by the provisions of section 165, or under an annuity plan to which § 29.22 (b) (2)–5 relates, to a beneficiary shall be reported to the extent such amounts are includible in the gross income of such beneficiary where the amounts so includible are $500 or

more if distributed or made available in a calendar year prior to 1948 or $600 or more if distributed or made available in a calendar year after 1947.

In the case of payments made by the United States to persons in its service (civil, military, or naval) of wages, salaries, or compensation in any other form, the returns of information shall be made by heads of the executive departments and other United States Government establishments.

For cases where no returns of information are required, see § 29.147–3. (See also § 29.22 (a)–3.)

PAR. 35. Section 29.147–3, as amended by Treasury Decision 5425, is further amended by striking from the first sentence "$500" and inserting in lieu thereof "$600".

PAR. 36. Section 29.147–7, as amended by Treasury Decision 5313, is further amended by striking therefrom "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri".

PAR. 37. Section 29.147–8, as amended by Treasury Decision 5313, is further amended by striking therefrom "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri".

PAR. 38. Section 29.148–1, as amended by Treasury Decision 5313, is further amended as follows:

(A) By striking from the last sentence of the first paragraph of paragraph (a) "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri."

(B) By striking from the first sentence of paragraph (b) "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri."

PAR. 39. Section 29.148–3, as amended by Treasury Decision 5356, approved April 19, 1944, is further amended by striking from the second paragraph "260 East 161st Street, New York 51, N. Y." and inserting in lieu thereof "C. C. Station, Kansas City 2, Missouri."

PAR. 40. There is inserted immediately preceding § 29.163–1 the following:

SEC. 202. TECHNICAL AMENDMENTS. (Revenue Act of 1948, Title II.)

* * * * *

(d) *Credit of estate against net income.* Section 163 (a) (1) of such Code (relating to credits against net income of an estate) is hereby amended by striking out "$500" and inserting in lieu thereof "$600".

* * * * *

SEC. 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1948, Title II.)

The amendments made by this title shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 41. Section 29.163–1, as amended by Treasury Decision 5517, is further amended by striking out the second sentence of paragraph (b) and inserting in lieu thereof the following: "For taxable years beginning after December 31, 1945, and before January 1, 1948, an estate is allowed a credit of $500 against net income for both normal tax and surtax purposes. For taxable years beginning after December 31, 1947, an estate is allowed a credit of $600 against net income for both normal tax and surtax purposes."

PAR. 42. Section 29.217–2 is amended by striking out the second sentence of the first paragraph of paragraph (b) and inserting in lieu thereof the following: "A return will not be required, however, in the case of such a nonresident alien individual, a resident of Canada or Mexico, whose sole income from sources within the United States consists of compensation for personal services and does not exceed $500 during the taxable year in the case of a taxable year beginning before January 1, 1948 or $600 during the taxable year in the case of a taxable year beginning after December 31, 1947."

PAR. 43. There is inserted immediately preceding § 29.400–1 the following:

SEC. 401. INDIVIDUALS WITH ADJUSTED GROSS INCOMES OF LESS THAN $5,000. (Revenue Act of 1948, Title IV.)

(a) *In general.* Section 400 of the Internal Revenue Code (relating to optional tax on individuals with adjusted gross incomes of less than $5,000) is hereby amended to read as follows:

SEC. 400. IMPOSITION OF TAX.

In lieu of the taxes imposed by sections 11 and 12, there shall be levied, collected, and paid for each taxable year upon the net income of each individual whose adjusted gross income for such year is less than $5,000, and who has elected to pay the tax imposed by this supplement for such year, a tax as follows:

If adjusted gross income is—		And the number of exemptions is—				If adjusted gross income is—		And the number of exemptions is—								
									2		3					
At least	But less than	1	2	3	4 or more	At least	But less than	1	And if other than a joint return is filed	And if a joint return is filed	And if other than a joint return is filed	And if a joint return is filed	4	5	6	7	8 or more
		The tax shall be—						The tax shall be—								
$0	$675	$0	$0	$0	$0	$2,325	$2,350	$250	$150	$150	$50	$50	$0	$0	$0	$0	$0
675	700	3	0	0	0	2,350	2,375	253	154	154	54	54	0	0	0	0	0
700	725	7	0	0	0	2,375	2,400	257	157	157	58	58	0	0	0	0	0
725	750	11	0	0	0	2,400	2,425	261	161	161	62	62	0	0	0	0	0
750	775	14	0	0	0	2,425	2,450	265	165	165	65	65	0	0	0	0	0
775	800	18	0	0	0	2,450	2,475	268	169	169	69	69	0	0	0	0	0
800	825	22	0	0	0	2,475	2,500	272	172	172	73	73	0	0	0	0	0
825	850	26	0	0	0	2,500	2,525	276	176	176	77	77	0	0	0	0	0
850	875	29	0	0	0	2,525	2,550	280	180	180	80	80	0	0	0	0	0
875	900	33	0	0	0	2,550	2,575	283	184	184	84	84	0	0	0	0	0
900	925	37	0	0	0	2,575	2,600	287	187	187	88	88	0	0	0	0	0
925	950	40	0	0	0	2,600	2,625	291	191	191	92	92	0	0	0	0	0
950	975	44	0	0	0	2,625	2,650	294	195	195	95	95	0	0	0	0	0
975	1,000	48	0	0	0	2,650	2,675	298	199	199	99	99	0	0	0	0	0
1,000	1,025	52	0	0	0	2,675	2,700	302	202	202	103	103	3	0	0	0	0
1,025	1,050	55	0	0	0	2,700	2,725	306	206	206	106	106	7	0	0	0	0
1,050	1,075	59	0	0	0	2,725	2,750	309	210	210	110	110	11	0	0	0	0
1,075	1,100	63	0	0	0	2,750	2,775	313	214	214	114	114	14	0	0	0	0
1,100	1,125	67	0	0	0	2,775	2,800	317	217	217	118	118	18	0	0	0	0
1,125	1,150	70	0	0	0	2,800	2,825	321	221	221	121	121	22	0	0	0	0
1,150	1,175	74	0	0	0	2,825	2,850	324	225	225	125	125	26	0	0	0	0
1,175	1,200	78	0	0	0	2,850	2,875	328	228	228	129	129	29	0	0	0	0
1,200	1,225	82	0	0	0	2,875	2,900	332	232	232	133	133	33	0	0	0	0
1,225	1,250	85	0	0	0	2,900	2,925	336	236	236	136	136	37	0	0	0	0
1,250	1,275	89	0	0	0	2,925	2,950	340	240	240	140	140	40	0	0	0	0
1,275	1,300	93	0	0	0	2,950	2,975	345	243	243	144	144	44	0	0	0	0
1,300	1,325	96	0	0	0	2,975	3,000	349	247	247	148	148	48	0	0	0	0
1,325	1,350	100	1	0	0	3,000	3,050	356	253	253	153	153	54	0	0	0	0
1,350	1,375	104	4	0	0	3,050	3,100	364	260	260	161	161	61	0	0	0	0
1,375	1,400	108	8	0	0	3,100	3,150	373	268	268	168	168	68	0	0	0	0
1,400	1,425	111	12	0	0	3,150	3,200	382	275	275	176	176	76	0	0	0	0
1,425	1,450	115	16	0	0	3,200	3,250	391	283	283	183	183	83	0	0	0	0
1,450	1,475	119	19	0	0	3,250	3,300	399	290	290	190	190	91	0	0	0	0
1,475	1,500	123	23	0	0	3,300	3,350	408	298	298	198	198	98	0	0	0	0
1,500	1,525	126	27	0	0	3,350	3,400	417	305	305	205	205	106	6	0	0	0
1,525	1,550	130	31	0	0	3,400	3,450	425	312	312	213	213	113	14	0	0	0
1,550	1,575	134	34	0	0	3,450	3,500	434	320	320	220	220	121	21	0	0	0
1,575	1,600	138	38	0	0	3,500	3,550	443	327	327	228	228	128	29	0	0	0
1,600	1,625	141	42	0	0	3,550	3,600	452	335	335	235	235	136	36	0	0	0
1,625	1,650	145	45	0	0	3,600	3,650	460	344	342	243	243	143	44	0	0	0
1,650	1,675	149	49	0	0	3,650	3,700	469	353	350	250	250	151	51	0	0	0
1,675	1,700	153	53	0	0	3,700	3,750	478	362	357	258	258	158	59	0	0	0
1,700	1,725	156	57	0	0	3,750	3,800	486	370	365	265	265	166	66	0	0	0
1,725	1,750	160	60	0	0	3,800	3,850	495	379	372	273	273	173	73	0	0	0
1,750	1,775	164	64	0	0	3,850	3,900	504	388	380	280	280	181	81	0	0	0
1,775	1,800	167	68	0	0	3,900	3,950	513	396	387	288	288	188	88	0	0	0
1,800	1,825	171	72	0	0	3,950	4,000	521	405	395	295	295	195	96	0	0	0
1,825	1,850	175	75	0	0	4,000	4,050	530	414	402	303	303	203	103	4	0	0
1,850	1,875	179	79	0	0	4,050	4,100	539	423	410	310	310	210	111	11	0	0
1,875	1,900	182	83	0	0	4,100	4,150	547	431	417	317	317	218	118	19	0	0
1,900	1,925	186	87	0	0	4,150	4,200	556	440	425	325	325	225	126	26	0	0
1,925	1,950	190	90	0	0	4,200	4,250	565	449	432	332	332	233	133	34	0	0
1,950	1,975	194	94	0	0	4,250	4,300	574	457	439	341	340	240	141	41	0	0
1,975	2,000	197	98	0	0	4,300	4,350	582	466	447	350	347	248	148	49	0	0
2,000	2,025	201	101	2	0	4,350	4,400	591	475	454	359	355	255	156	56	0	0
2,025	2,050	205	105	6	0	4,400	4,450	600	483	462	367	362	263	163	63	0	0
2,050	2,075	209	109	9	0	4,450	4,500	608	492	469	376	370	270	171	71	0	0
2,075	2,100	212	113	13	0	4,500	4,550	617	501	477	385	377	278	178	78	0	0
2,100	2,125	216	116	17	0	4,550	4,600	626	510	484	393	385	285	186	86	0	0
2,125	2,150	220	120	21	0	4,600	4,650	635	518	492	402	392	293	193	93	0	0
2,150	2,175	223	124	24	0	4,650	4,700	643	527	499	411	400	300	200	101	1	0
2,175	2,200	227	128	28	0	4,700	4,750	652	536	507	420	407	308	208	108	9	0
2,200	2,225	231	131	32	0	4,750	4,800	661	544	514	428	415	315	215	116	16	0
2,225	2,250	235	135	35	0	4,800	4,850	669	553	522	437	422	322	223	123	24	0
2,250	2,275	238	139	39	0	4,850	4,900	678	562	529	446	430	330	230	131	31	0
2,275	2,300	242	143	43	0	4,900	4,950	687	571	537	454	437	337	238	138	39	0
2,300	2,325	246	146	47	0	4,950	5,000	695	579	544	463	444	345	245	146	46	0

(b) *Taxable years to which applicable.* The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1947. For treatment of taxable years beginning in 1947 and ending in 1948, see section 601.

PAR. 44. Section 29.400–1, as amended by Treasury Decision 5517, is further amended as follows:

(A) By striking from the first sentence of the third paragraph of paragraph (b) beginning with the words "In the case of husband and wife" the words "living together".

(B) By striking out the fourth paragraph of paragraph (b) beginning with the words "These restrictions" and inserting in lieu thereof the following:

(b) *Taxable years beginning after December 31, 1943.* * * *

These restrictions upon the right of a married person to elect to pay the tax under Supplement T are applicable with respect to taxable years beginning before January 1, 1948, only if such person is married and living with his spouse on the last day of his taxable year or, in the event of the death of his spouse during the taxable year, upon the date of such death. For the purpose of the preceding sentence, husband and wife are considered as living together unless they are permanently separated. For taxable years beginning after December 31, 1947, the restrictions upon the right of a married person to elect to pay the tax under Supplement T are applicable unless such person is legally separated from his spouse under a decree of divorce or separate maintenance on the last day of his taxable year or, in the event of the death of his spouse during the taxable year, upon the date of such death. For rules relative to the application of these restrictions, see § 29.23 (aa)–1 (c).

(C) By inserting immediately before the last paragraph of paragraph (b) the following:

The tax table in section 400, as amended by the Revenue Act of 1948 and applicable with respect to taxable years beginning after December 31, 1947, contains, in certain areas, double columns, in one of which is computed the tax if a separate return is filed, and in the other of which is computed the tax if a joint return is filed. Since the computations of tax in the case of a joint return reflect the income-splitting method provided in section 12 (d), as amended by the Revenue Act of 1948, the tax set forth in the joint return column may be lower than in the separate return column even though the amounts of adjusted gross income and the exemptions are the same. Thus, if H, a married man, has adjusted gross income of $4,925 and his wife has no gross income and his only exemptions under section 25 (b) are the exemptions for himself and spouse under section 25 (b) (1) (A), the tax on a joint return under Supplement T, as set forth in the second column applicable to a person with two exemptions, is $537. If H should file a separate return, his tax, as set forth in the first column applicable to a person with two exemptions, would be $571. For treatment of taxable years beginning in 1947 and ending in 1948, see § 29.108–3.

PAR. 45. Section 29.401–1, as amended by Treasury Decision 5517, is further amended as follows:

(A) By inserting in the first paragraph of paragraph (b) immediately before "See § 29.25–3" the following: "For taxable years beginning after December 31, 1947, additional exemptions are allowed under section 25 (b) (1) (B) and (C) for a taxpayer or spouse who had attained the age of 65 years and for a blind taxpayer or blind spouse."

(B) By adding after *Example* (2) in paragraph (b) the following example:

Example (3). D, a married man with no dependents, attains the age of 65 years on September 1, 1948. The aggregate adjusted gross income of D and his wife for 1948 is $4,840. D and his wife file a joint return for 1948 and are entitled to three exemptions, one for each taxpayer and one additional exemption for D because of his age. Since the adjusted gross income of D and his wife falls within the tax bracket $4,800–$4,850, the tax on a joint return is $422.

PAR. 46. Section 29.402–1, as amended by Treasury Decision 5425, is further amended as follows:

(A) By adding after "December 31, 1943," in paragraph (b) "and before January 1, 1948,".

(B) By adding at the end of paragraph (b) the following: "An election under Supplement T once made for the taxable year may not be revoked by an amended return or otherwise, but a new election is allowed for each subsequent taxable year. If for any taxable year the taxpayer makes a return without regard to Supplement T, he may not thereafter elect to have his tax computed under such Supplement for that taxable year.

The provisions of this paragraph (b) are also applicable to taxable years beginning after December 31, 1947, except that wherever the prescribed manner of making the election involves the filing of a return on Form W-2 (Rev.) the election shall be made by the filing of Form 1040A instead of Form W-2 (Rev.). See § 29.51–2 (b) (2).

(Secs. 62, 3791, Internal Revenue Code, 53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revnue.

Approved: February 16, 1949.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49–1394; Filed, Feb. 22, 1949; 8:46 a. m.]

[T. D. 5688]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

INCOME OF ESTATES AND TRUSTS

Section 29.162–1 of Regulations 111, as amended by Treasury Decision 5488, approved December 29, 1945 (26 CFR 29.162–1), is further amended as follows:

(A) By striking from the third sentence of the first paragraph the words "with the return in which the item is claimed as a deduction."

(B) By inserting immediately after such third sentence the following: "Such statement and waiver should be filed with the return for the year for which the item is claimed as a deduction, or with the Commissioner, or with the collector for the district in which such return was filed, for association with the return.

(Secs. 62, 162 (e), Internal Revenue Code, 53 Stat. 32; 56 Stat. 861; 26 U. S. C. 62, 162 (e))

Because the amendments made by this Treasury decision merely relieve taxpayers from a limitation applicable under existing regulations, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

Approved: February 16, 1949.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49–1395; Filed, Feb. 23, 1949; 8:46 a. m.]

[T. D. 5689]

PART 29 — INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

FIGURE TO BE USED IN DETERMINING RESERVE AND OTHER POLICY LIABILITY CREDIT FOR LIFE INSURANCE COMPANIES

FEBRUARY 21, 1948.

PARAGRAPH 1. By virtue of the authority vested in me by section 202 (b) of the Internal Revenue Code, as amended by section 163 of the Revenue Act of 1942 (53 Stat. 71, 56 Stat. 870; 26 U. S. C. and Sup., 202 (b)), it is hereby determined that the figure to be used in computing the "reserve and other policy liability credit" of life insurance companies for the taxable year 1948 shall be 1.0243.

PAR. 2. It is found that notice and public procedure are unnecesary, since the figure announced in this Treasury decision is computed from information contained in the income tax returns of life insurance companies for the year 1947 which are not open to public inspection. The public accordingly cannot effectively participate in the determination of such figure.

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 49–1439; Filed, Feb. 23, 1949; 10:19 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter V—Department of the Army

Subchapter F—Personnel

PART 578—DECORATIONS, MEDALS, RIBBONS, AND SIMILAR DEVICES

MISCELLANEOUS AMENDMENTS

Part 578 is hereby amended by adding a new paragraph (d) to § 578.48 and

changing paragraph (d) (2) of § 578.54 to read as follows:

§ 578.48 *Army of Occupation Medal.*
* * *

(d) *Berlin airlift device*—(1) *Description.* The Berlin airlift device is a gold-colored metal miniature of a C54 type aircraft of ⅜-inch wing span, other dimensions proportionate. The device is to be worn on the service ribbon or on the suspension ribbon of the medal with the nose pointing upward at a 30° angle and toward the wearer's own right.

(2) *Requirements.* Service for 90 consecutive days while assigned or attached to a unit in the Army Occupation of Germany which has been designated in general orders of the Department of the Army or Department of the Air Force as participating in the Berlin airlift between June 26, 1948, and a terminal date to be announced later.

§ 578.54 *Lapel buttons.* * * *
(d) *Army lapel button.* * * *
(2) *Requirements.* Honorable active Federal service in the Army of the United States for at least 1 year subsequent to December 31, 1946.
* * * * *

[C2, AR 600–65] (R. S. 161, 40 Stat. 872; 5 U. S. C. 22, 10 U. S. C. 1401)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 49–1399; Filed, Feb. 23, 1949; 8:52 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

[Gen. Order 59, Revocation of Amdt. 1, Amdt. 1, Rev., and Supp. 1]

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

SALE, LEASE, CHARTER, DELIVERY, OR TRANSFER OF VESSELS TO ALIENS AND AGREEMENTS THEREFOR

Amendment 1 to General Order 59 (§ 221.7 (c), 13 F. R. 525; 46 CFR 221.7 (c)), Amendment 1, Revised to General Order 59 (§ 221.7 (c), 13 F. R. 1455; 46 CFR 221.7 (c)) and Supplement 1 to General Order 59 (§ 221.8, 13 F. R. 2478; 46 CFR 221.8) are hereby revoked.

Except as modified by the revocations mentioned aforesaid, General Order 59, dated December 6, 1945 (§ 221.7 (a) and (b)) and published in the FEDERAL REGISTER on December 12, 1945 (10 F. R. 14969; 46 CFR, 1945 Supp. 221.7) shall remain in full force and effect.

In connection with the revocations of § 221.7 (c) and § 221.8, as set forth herein, it is hereby announced that, upon application to this Commission, it will waive the "cancellation or suspension" clause as required by said Supplement 1 to General Order 59 (§ 221.8) now incorporated in the long term charters to aliens which have heretofore been approved by the Commission.

(40 Stat. 901, 49 Stat. 1987, 2016, 52 Stat. 964; 46 U. S. C. 808, 835, 839)

By order of the United States Maritime Commission.

[SEAL] A. J. WILLIAMS,
Secretary.

FEBRUARY 17, 1949.

[F. R. Doc. 49–1444; Filed, Feb. 23, 1949; 10:19 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 927]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps. 900.1 et seq., 13 F. R. 8585), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a marketing agreement and a proposed amendment to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on March 1, 1949 or on the fourth day after publication of this notice in the FEDERAL REGISTER, whichever is later. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and the proposed amendment to the order, as amended, were formulated was held at New York City on September 27–October 1, 1948, and at Utica, New York on October 6–7, 1948, notice of which was issued on September 2, 1948, and published in the FEDERAL REGISTER on September 9, 1948 (13 F. R. 5242), and at Elmira, New York, on January 24–28, 1949, and at Syracuse, New York, on January 31–February 2, 1949, notice of which was issued on January 3, 1949, and published in the FEDERAL REGISTER on January 7, 1949 (14 F. R. 95).

Findings and conclusions on all the material issues presented on the records of these hearings are contained in this recommended decision. The material issues presented on the record of this hearing are concerned with the following:

1. Revision of classes of utilization by designating Class II–A as Class II, combining Classes II–B through IV–B into a new Class III, and eliminating Classes V–A and V–B (H. N. 72);

2. Establishment of pricing provisions for the new Class III and revision of the Class II pricing provisions by including therein a skim milk value (H. N. 30–47, 75, 77 and 78).

3. Establishment of a butter-cheese differential (H. N. 76).

4. Establishment of a fluid skim differential (H. N. 79).

5. Storage cream payments. (H. N. 57, 59–60, and 86).

6. Revision of the provisions for payments on milk or milk products from other than producer sources (H. N. 61–63 and 87).

7. Revision of the pricing of Class I–C milk sold in New England (H. N. 27, 65, and 66).

8. Qualification of a plant to be a pool plant even though shipment of milk to the marketing area is prohibited for specified periods by reason of health authority permission for receiving unapproved milk or skim milk or for shipment of approved skim milk from such a plant (H. N. 3).

9. Revision of provisions concerning the suspension of pool plant designations as to (a) establishing an obligation for handlers to utilize milk so it will yield the greatest possible return to producers; and (b) the classes of milk which are permitted or required to be included by the market administrator in his determination as to the desirable utilization of milk (H. N. 4–9 and 70).

10. Revision of the basis of classification by (a) prohibiting the classification in a class higher than Class II of milk manufactured into cream or, if such cream is shipped to another plant, in a class higher than the class applicable to fluid cream in the area in which the receiving plant is located; (b) prohibiting the classification of milk shipped to a plant in an area not regulated by an order of the Secretary in a class higher than I–C; (c) eliminating or revising the provisions requiring that milk, cream, or skim milk shipped to the marketing area be classified as I–A, II–A, or V–A, respectively; (d) changing the provisions for classifying milk and cream shipped more

than 65 miles to plants located in certain states; (e) allowing a handler to elect at which plant milk or cream shipped to a nonpool plant shall be classified and (f) eliminating the preferential assignment of pool milk to excess plant loss classified in Classes I–A, II–A, II–B, and V–A in a plant with receipts from both pool and nonpool sources (H. N. 11–21, 25, 26, and 71).

11. Revision of class definitions by (a) placing cultured or flavored milk drinks containing more than 5 percent of butterfat in Class II if sold in the marketing area or in Class III if sold outside the marketing area; (b) basing Classes I–B and I–C on delivery to a plant or purchaser rather than on ultimate distribution and (c) classifying as Class III milk utilized in products not specifically named in any other class. (H. N. 22–24, and 72).

12. Revision of the provisions authorizing the market administrator to audit handlers' records (H. N. 51).

13. Revision of reporting and accounting requirements associated with storage cream payments (H. N. 50, 57, 58, 81 and 86).

14. Revision of the method for establishing freight zones (H. N. 48 and 67).

15. Elimination or revision of provisions relating to location differentials (H. N. 52, 53 and 54).

16. Elimination of provisions for payment by handlers into the producer settlement fund, and for later disposition of payments due producers who cannot be located, and of payments concerning which dispute arises as to when such payments are due producers (H. N. 55).

17. Revision of the provisions for calculating the butterfat differential used in connection with payments to producers (H. N. 56).

18. Revision of provisions concerning expenses of administration (H. N. 88).

19. Miscellaneous and incidental (H. N. 1, 2, 28, 29, 49, 64, 68, 69, 73, 74, 80, and 82–85).

Proposed findings and conclusions. (Each of the issues, followed by the findings and conclusions with respect to that issue, is numbered to correspond with the numbers of the issues as listed above.)

Issues Nos. 1, 2, 3, 4, 5, and 6. Milk classified in the present classes II–B through IV–B should be classified in one class and designated as Class III. Class II–A should be redesignated as Class II. A fluid skim differential applicable to skim milk now classified as Class V–A should be substituted for the present classes V–A and V–B. Prices for Class II and III milk should include the value of the skim milk for manufacturing.

The formula for Class III milk should reflect the value of butterfat plus the value of skim milk, minus allowances for transportation and handling. The butterfat value for the months of August through February should be computed by dividing the Boston weighted average cream price by 33.48. The butterfat value during March through July should be the lower of the Boston weighted average cream price divided by 33.48, or the New York Grade A or 92-score butter price plus 3 cents, multiplied by 1.24. At no time, however, should the butterfat value be lower than the New York Grade A or 92-score butter price plus 2 cents, multiplied by 1.24. The skim milk price should be the price per pound published in "The Producers' Price Current" for nonfat dry milk solids, other brands, human consumption, carlots, bags or barrels, multiplied by 7.5.

Allowances for transportation and handling should be 70 cents and 10 cents respectively per hundredweight of milk.

The transportation differentials presently applicable to Class II–A milk should apply to Class III milk.

The skim milk adjustment to be included in the Class II price should be an amount obtained by subtracting 48 cents from the skim milk value used in the Class III formula.

The butterfat differentials for Class II and Class III should be computed by subtracting the amount of the Class II skim milk adjustment from the class price and dividing by 35.

For milk made into butter and cheese (Cheddar, American Cheddar, Colby, washed curd, or part skim Cheddar) the handler should be credited with an amount equivalent to 4 cents per pound of butterfat except that the amount credited in plants in zones beyond 325 miles should be reduced to offset the increase in transportation differentials applicable in such zones over and above those applicable in the zones between 301 and 325 miles from New York.

For storage cream used in reconstituted cream or sour cream for the marketing area, the handler should pay to producers through the producer settlement fund an additional 10 cents per pound of butterfat if the cream was separated in the months of March through July, and an additional 11 cents per pound of butterfat if the cream was separated in the months of August through February.

Handlers storing cream during the months of April through September should be eligible, as heretofore, for a storage cream payment from the pool equivalent to the butter-cheese adjustment for such cream utilized in the manufacture of butter in the months of January through March.

For storage cream separated during the months of April through July 1949 which is utilized in products other than reconstituted cream and sour cream for the marketing area and other than butter otherwise eligible for payments, handlers separating cream should be paid an amount equivalent to any decline in the Class III butterfat value between the month of separation and the month of utilization, but no more than the amount of the butter-cheese adjustment. The payment into the pool for storage cream separated in the months of April through July 1949 used for marketing area sour cream or reconstituted cream should be so limited that it does not exceed an amount equivalent to 10 times the Class II butterfat differential less 4 cents in the month utilized.

The payment into the pool for nonpooled milk received in the marketing area in the form of milk, fluid milk products, cultured or flavored milk drinks, cream or fluid cream products should be made at a rate equal to the difference between the Class III and the Class I–A or Class II price, whichever is applicable. A rate equal to the fluid skim differential should be paid on nonpool skim milk entering the marketing area.

Payments on non-pooled cream which is received in the marketing area and classified as Class III, or on plain condensed milk, frozen desserts, or homogenized mixtures, should be eliminated.

The conclusions herein as to the proper pricing of surplus milk should be considered as applicable only under conditions in prospect for the next few months. A hearing to reconsider surplus milk pricing should be held soon after the period of flush production and no later than September 1949.

Indications are that the quantity of Order No. 27 pool milk (hereinafter referred to as surplus milk) which must be utilized in products other than those requiring approval of marketing area health authorities will be substantially larger during the next few months than during corresponding months of recent years. This is due principally to the action of the Board of Health of the City of New York in permitting, effective January 1, 1949, cream from sources not directly under the supervision of the New York City Department of Health to be used in the manufacture of ice cream and other manufactured dairy products. In addition it appears that the total supply of pool milk, particularly through the season of flush production, will be somewhat higher than in recent years. Any decrease in the consumption of fluid milk this year in relation to recent years will also increase the quantity of milk to be other wise utilized.

If orderly marketing of producers' milk is to be effected, all milk offered to handlers by producers must be accepted. In order to insure orderly marketing, therefore, surplus milk must be priced at a level at which handlers will accept the utilize it.

In the absence of classified pricing and equalization as provided under the order, certain milk products, including cream for fluid purposes or ice cream in the Northeast and the products included in the present Class III, would comprise preferred outlets for New York pool milk. These are relatively bulky or perishable products for which transportation costs from the more distant production areas in the midwest are relatively high. This is not true in the case of butter and Cheddar cheese and certain other milk products which are compact and relatively nonperishable. Surplus milk used in products other than butter and Cheddar cheese has regularly returned more money to producers than milk used for butter and Cheddar cheese. New York pool milk should be priced under the order so as to result in the utilization of surplus milk in the preferred surplus outlets, thus preserving for producers the economic advantage to which their location entitles them.

Ideally, those uses which return producers the highest prices should yield the greatest net return to handlers. Although class prices in the past have been established in accordance with that objective, changing relationships between product values have frequently inter-

fered with its realization. With the present system of multiple class pricing, the amount of surplus milk used in certain preferred outlets such as fluid cream and ice cream for Eastern markets and evaporated milk has declined in recent years, both in absolute quantity and in relation to the total milk utilized in such outlets, while at the same time relatively large amounts of pool milk have been utilized in the manufacture of butter and cheese. With all surplus milk priced at a single price handlers can reasonably be expected to search for the preferential markets rather than put their milk into those products which afford the most favorable margin for handlers but which may result in the lowest return to producers. It is concluded, therefore, that all surplus milk should be in the same class.

The price established at this time for milk classified in a single surplus class may need to be lower than the price established for such milk after a period of time has been allowed for a shift of pool milk into the more preferential outlets.

An analysis of possible markets for surplus milk reveals that it must be priced so that a substantial part of it will be utilized for ice cream in New York City if the quantity of such milk used in lower value products, such as butter and Cheddar cheese, is to be kept at a minimum.

Until recently, cream for use in New York City ice cream had to come only from sources under the direct supervision of the New York City Department of Health. The price for pool milk so utilized has included a premium over the price of other cream. This outlet, by reason of the change in New York City health authority requirements will no longer return producers its former premium. Any attempt to maintain this premium in the order would result in the substitution of other milk for pool milk for this use.

Ice cream manufacturers have been permitted to use butter from sources other than those directly inspected by the New York City Department of Health in making ice cream. Butter has displaced pool cream as a source of butterfat for New York City ice cream to a substantial extent. This shift has been expedited by recent technological developments in the process of using butter in making ice cream with accompanying improvement in the quality of ice cream so made. Cream for New York City ice cream, therefore, must compete with butter as a source of butterfat.

The butter used in ice cream, however, is of special quality for which ice cream manufacturers pay a premium. The record indicates that the premium which they are willing to pay is 2 cents per pound of butter. Butter usually contains about 80.5 percent butterfat. The value of a pound of butter, including premium, therefore, should be multiplied by 1.24 to arrive at the value of a pound of butterfat. To convert the value per pound of fat to a value per hundredweight of milk, multiply by 3.5.

Other preferred outlets in the Northeast should be able to absorb pool milk at a price which will compete with butter for New York City ice cream. These outlets include cream for other Eastern markets such as Boston and Philadelphia. Supply conditions in the Northeast at times in the past have resulted in the payment of premiums for butterfat in Northeastern markets higher than premiums normally obtainable over the price of butterfat in the Midwest. If such a condition develops in the future, the additional premium should accrue to Northeastern producers. The weighted average price per 40-quart can of 40 percent bottling quality cream in Boston is apparently the best indicator of the variation in value of butterfat in the Northeast due to short-term variations between National and Northeastern supply conditions. A disadvantage of the Boston cream price, however, is that the milk equivalent of cream in the Boston market is relatively small as compared with the volume of surplus milk in the New York pool.

The value of butterfat in Boston cream is probably comparable with the value of butterfat in butter suitable for New York City ice cream as an indicator of butterfat values in the Northeast except for occasional premiums due to special supply and demand conditions in the Northeast. Some slight difference might exist because of a difference in the cost of shipping cream from the Midwest to the New York and Boston markets, but the record does not show what the difference is, if any. The contention was made at the hearing that the Boston cream price reflected some premium for continuous supply throughout the year which New York handlers are not in a position to obtain. The precise amount of such premium, if any, is not shown in the record. The generally recognized way to convert a price for a 40-quart can of 40 percent cream to a value per pound of butterfat is to divide by 33.48.

In the months from March through July, the New York ice cream market is a more important outlet for pool milk than at other times of the year. During this period, production of New York surplus milk is likely to exceed the available outlets for current use other than for butter and cheese. Ice cream manufacturers, as well as others, however, buy butterfat during this period to store for use in times of short supply. Some ice cream manufacturers buy practically their entire year's needs of butterfat during this period.

It is concluded, therefore, (1) that the Boston weighted average cream price should be used when possible as the indicator of the value of butterfat in the Class III formula; (2) that, because of the fact that the volume of cream on which the Boston weighted average cream price is based is, or may be, relatively small, and because butterfat for ice cream is worth the value of premium butter, a floor computed by adding 2 cents to the price of U. S. Grade A or U. S. 92-score butter in New York multiplied by 1.24 should be applicable; and (3) that during the months of March through July the premium over the floor which the Boston cream price should be permitted to reflect should be limited to an amount equivalent to one cent per pound of butter.

Evidence in the record shows that a large part of the skim milk from pool milk is manufactured into nonfat dry milk solids and that a large proportion of the nonfat dry milk solids manufactured in recent years has been sold for human consumption.

It is concluded, therefore, that the prices to be used to represent the value of skim milk be prices for nonfat dry milk solids for human consumption only rather than the average of the prices for human consumption and for animal food. This change, however, has been taken into consideration in arriving at the handling allowance included as a part of the Class III price formula.

In the computation of the skim value in the recommended Class II and Class III formulas, the quotation for nonfat dry milk solids is multiplied by 7.5 to represent the value of 91.25 pounds of skim milk (considering 100 pounds of 3.5 percent milk to be equivalent to 9.75 pounds of 40 percent cream and 91.25 pounds of skim milk). The result is approximately the same as that obtained under the present Class V–B formula by multiplying the nonfat dry milk solids quotation by 8.3 to arrive at a value for nonfat dry milk solids made from 100 pounds of skim milk.

The Class III price resulting from the formula is the price in the 201–210 zone from New York City. An allowance to cover the cost of shipping cream and nonfat dry milk solids from the 201–210 mile zone to New York City should be subtracted from the value of the butterfat and skim milk solids in New York City. Carlot rates for shipping cream are equivalent to about 7 cents per hundredweight of milk, and rates for shipping nonfat dry milk solids are approximately equivalent to 3 cents per hundredweight of milk. A transportation allowance of 10 cents, therefore, should be subtracted from the combined value at New York City of the butterfat and nonfat solids in a hundredweight of milk.

Probably the most important single factor in a formula for Class III milk is the handling allowance. The allowance should be one under which all of the milk offered for sale by producers will be accepted by handlers. An allowance which is too high would result in high charges by country plants for Class I–A milk and varying premium payments to producers, and cooperative associations of producers, above the prices required to be paid by the order. A handling allowance which is too low would result in charges for Class I–A milk at less than that necessary to cover cost of operations, and eventually in the reluctance or refusal of handlers to accept milk from producers or from cooperative associations of producers.

One approach to the problem of determining the handling allowance is to determine the cost of manufacturing the products used as a basis for determining the price. In a formula using the value of cream and nonfat dry milk solids as a basis, the costs of manufacturing these products should be used. There are many difficulties in determining handling allowances on the basis of such

costs. First, there are few, if any, operations in the New York milkshed which are limited substantially to the separation of cream and the production of roller process nonfat dry milk solids. The cost of operating manufacturing plants may be higher by reason of the manufacture of products which yield a higher return, or a lower cost may be incurred if products yielding a lower return are being sold. Second, fixed costs may be allocated to different operations in different ways. An operator who has principally a Class I–A business may allocate most or all of its fixed costs to the Class I–A business, while an operator who has a large percentage of his milk being manufactured might allocate a large share of his fixed costs to the manufacturing operations. Both methods may be correct for the particular business involved. Third, it is necessary to adjust the handling allowance for prospective changes in the costs.

Considerable testimony was offered to indicate that the cost of making cream and nonfat dry milk solids is between 85 cents and one dollar per hundredweight. When these figures are adjusted for prospective decreases in plant loss costs because of recent and prospective decrease in product values, for prospective decreases in costs of feeder plant milk in view of prospective higher volume, and to eliminate costs already taken into account in the transportation allowance, it appears that the costs for this year will be nearer to 70 cents than to the costs for last year.

Another method of approaching the problem is to consider percentage changes in the costs of operating manufacturing plants. Over-all costs of manufacturing operations appear to have increased about 26 percent since handling allowances were last determined. Increasing by 26 percent the present handling allowance of 59 cents for cream and nonfat dry milk solids operations would result in a handling allowance of about 74 cents. Some adjustment in this figure is appropriate in view of prospective conditions this year.

A third method of approaching the problem is through study of the actual handling allowances paid feeder plants for milk for manufacture or for Class I–A use. The payment of charges for handling fluid milk, except in times of short supply, considerably in excess of the cost of operating fluid milk plants will indicate a correspondingly excessive allowance for handling surplus milk. A Class III formula must have been in operation for a period of time before this method can be used.

A variation of this third method is to study margins taken for fluid cream and nonfat dry milk solids sold in New York City. Since such cream is supplied almost entirely from pool milk, margins existing indicate what handlers actually believe is a sufficient allowance for handling milk. In 1948 the margin was equivalent to 84.8 cents per hundredweight of milk. This margin, however, includes the transportation allowance. It also should be adjusted for prospective conditions this year.

It is concluded, therefore, that the handling allowance in the Class III formula should be 70 cents. The effects of this allowance on the handling allowances paid fluid milk plant operators should be watched and the allowance be reconsidered soon after the period of flush milk production.

No evidence was introduced to show that the present method of computing the surplus class butterfat differentials should be changed. The only changes recommended herein are those changes necessary to make the butterfat differentials conform with the recommended changes in class prices. Since the recommended Class II and Class III formulas include a skim value, that skim value should be deducted from those class prices in the computation of butterfat differentials. The amount to be deducted should be the same as the skim value included in the Class II formula. A different butterfat differential for milk utilized in butter or cheese will be reflected in the operation of the recommended butter-cheese differential which is based on pounds of butterfat so used.

Establishment of one set of transportation differentials for all Class III products should encourage more economic handling of milk. It should encourage the shipment of the more bulky and perishable Class III products from areas nearer the available markets, leaving the milk in more distant areas for manufacture into more condensed products.

The proposed was made that the present transportation differentials should be retained on milk separated into cream sold in New England or the Class II–D area. This was based on the contention that it would equalize costs for the consuming market as among handlers. While this might be true for cream shipped to Boston or Philadelphia, it would not be true for shipments to other markets in these areas. Furthermore, the evidence reveals no economically sound reason why outside markets should not be served from plants most advantageously located with respect to those markets.

The handling allowance in the Class III price formulas as herein set forth represents an allowance for making cream and nonfat dry milk solids from whole milk. In adding a skim value to the Class II price an allowance for making nonfat dry milk solids from the skim milk in Class II milk is required. The allowance should be some portion of the 70 cents allowance on Class III milk.

Evidence in the record indicates that any break-down of plant operating costs between cream and nonfat dry milk solids involves arbitrary assignment of various factors of cost to each product to the extent that separate allowances for cream and for nonfat dry milk solids are less significant than the total allowance for manufacturing milk into cream and nonfat dry milk solids. However, if nonfat dry milk solids price quotations are to be used as a basis for determining the value of skim milk in Class II milk, some margin must be provided the handler to cover the cost of skim milk in Class II milk or such cost would have to be recovered in the price of cream.

Pursuant to the present order the allowances on nonfat dry milk solids amount to about 64 percent of the sum of the allowances on a hundredweight of milk made into cream and nonfat dry milk solids. If the allowance on nonfat dry milk solids was considered to bear the same percentage to the 70-cent allowance as it does to the total of the allowances on cream and nonfat dry milk solids at the present time, it would amount to 45 cents. Addition of 3 cents as an allowance for freight on nonfat dry milk solids from the 201–210 mile zone results in a total allowance of 48 cents for skim milk in Class II milk.

The return to producers for milk should be the same whether the milk is used as fluid milk, or as fluid cream and low butterfat content milk drinks or as fluid cream and fluid skim milk in the marketing area, as long as skim milk sold as fluid skim milk or milk drinks must come from producers approved by a marketing area health authority. The fluid skim differential herein established applies to the same skim milk as presently classified in V–A and will yield a return equivalent to the present Class V–A price.

Proposals were considered at the hearing to reduce to the present Class V–B level the price of skim milk presently classified in Class V–A. Proponents contended that the V–A price has added materially to the product cost of skim milk products, thus encouraging substitution of concentrated skim milk for fluid skim milk in skim milk products, and pointed to the limited extent to which the uniform price would be reduced by reason of the proposed change. The record shows that the volume of Class V–A skim milk increased about 50 percent in 1948 over 1947 and to a level higher than for any year since 1943. Likewise the contribution to the uniform price in 1948 was substantially greater than previously. If substitution of concentrated skim in V–A products does occur the return to producers on displaced fluid skim milk will be no lower than the return on all skim milk in the event of adoption of the proposed price reduction. The fact that the volume of Class V–A skim milk is small in relation to the total volume of pool milk and therefore makes only a minor contriubtion to the uniform price is no valid reason for reducing its price.

Outlets may not be available in 1949 for all of the surplus milk in products other than butter and cheese. In order to insure the acceptance of all the milk produced for the market, a lower price should be established for milk made into butter and cheese. This lower price should not be such that it encourages the use of milk in butter and cheese when a more remunerative outlet is available.

The changes in disposition of surplus milk that may be expected to result from shifting to a single surplus class may require some time to take place. Providing a special differential for milk made into butter and cheese while this shift is taking place appears reasonable.

Evidence in the record indicates that the price of cheese on the Wisconsin Cheese Exchange does not accurately reflect changes in the value of cheese in the New York milkshed. It appears that handlers manufacturing cheese usually sell their cheese on the basis of the Wis-

consin Cheese Exchange quotations but at varying amounts above or below that quotation. No other cheese price quotation was suggested which would reflect changes in the value of cheese made from pool milk.

May and June are the months of greatest cheese production from pool milk while the most butter is usually made in March. The fact that less butter is made in May and June than in March indicates that butter facilities are not being used to capacity in May and June. The record does not show the distribution of butter facilities over the milkshed but to the extent that milk has alternative outlets in butter and cheese, it appears that a price for cheese lower than butter should not be provided.

Most of the cheese sold on the Wisconsin Cheese Exchange is produced in areas where milk is used primarily for manufacturing. Cheese factories must compete with butter factories in obtaining and maintaining a supply of milk. Accordingly, the prices paid farmers for milk used to make butter or cheese must be about the same. Since the combined costs of shipping butter and nonfat dry milk solids from the Midwest is about the same as the cost of shipping cheese, the value of Eastern milk for butter and cheese should be about the same.

During the months of March through July, which are the months during which a large proportion of the butter and cheese is made, the butterfat value used in computing the Class III price will exceed the value of butterfat in butter by not more than 3 cents per pound of butter (3.72 cents per pound of fat) and may exceed the value of butterfat in butter by as little as 2 cents per pound of butter (2.48 cents per pound of fat). A butter-cheese differential of 4 cents per pound of fat will therefore at all times during those months completely cancel out the amount by which the butterfat value used in computing the Class III price exceeds the value of butterfat in butter and will provide a handler making butter or cheese some additional allowance.

Some further allowance to handlers making butter or cheese results from the use of a transportation allowance and transportation differentials based on the cost of shipping cream and nonfat dry milk solids to the marketing area. This additional allowance would be approximately equal to the difference between the costs of shipping butter or cheese and cream to the marketing area. This difference increases as the distance to the marketing area increases.

The amount of the allowance provided a handler in the butter-cheese differential plus the transportation differential to the 301–325 mile zone could result in an amount approximately equivalent to the costs of churning butter as shown in the record. Crediting handlers with the full butter-cheese differential in zones more distant from the marketing area than the 301–325 mile zone could result in the butter being a more favorable outlet to a handler than a Class III product other than butter and cheese.

To eliminate this possibility the amount of the butter-cheese differential in areas more distant from the marketing area than the 301–325 mile zone should be reduced by the amount which the transportation differential is higher than the transportation differential in the 301–325 mile zone. Public disclosure by the market administrator of the location of any plant, and the name of the handler operating the plant, at which any significant amount of milk is being used in butter or cheese should result in the movement of milk into a higher value utilization if any other handler has such outlets available. Provision for such public disclosure only in instances of utilization in butter and cheese of an average of at least 4,000 pounds of milk per day is designed to exclude incidental uses for butter or cheese of volumes of milk smaller than those constituting a probable source of supply for other Class III products.

Storage cream from pool milk has historically been used principally for products requiring milk from sources inspected by the New York City Department of Health, namely sour cream, reconstituted cream and ice cream. The order has priced milk utilized in storage cream the same as milk used in New York City ice cream—a price higher than that for milk used for cream sold outside the marketing area but lower than that for Class II–A milk. Fresh cream used either as sweet or sour cream is classified as Class II–A.

Milk used for storage cream subsequently manufactured into ice cream should be priced the same as milk used directly in ice cream. Evidence in the record, however, indicates that no similar reduction should be made in the price of milk used for storage cream subsequently made into sour cream or reconstituted sweet cream for the marketing area.

In order to lower the price for milk used in cream stored for ice cream and not for cream stored for sour or reconstituted cream, one of two methods might be used:

First, price the milk at the higher price and pay rebates when the cream is used in ice cream; or, second, price the milk at the lower price and require an additional payment if the cream is used in sour or reconstituted cream.

In order to encourage the storage of cream to facilitate the use of pool milk in the preferential uses, it is concluded that the original payment should be at the lower rate than at the higher.

At the present time the Class II–B price (the price for milk used in storage cream) is priced 20 cents per hundredweight over the Class II–E price in March through July and 25 cents over the Class II–E price in the months of August through February. To bring the total costs of milk used for storage cream for sour or reconstituted cream up to the approximate level resulting from the present Class II–B formula an additional payment above the Class III price of 10 cents per pound of butterfat should be charged for cream separated in the months of March through July, and 11 cents per pound of butterfat should be charged for cream separated in the months of August through February.

Inasmuch as a lower price (in the form of the butter-cheese adjustment) for milk made into butter is being continued in the order, storage cream payments for cream separated in April through September and used in butter during January through March should be continued. The rate should be the same as the butter-cheese differential.

The decline in dairy product prices generally in the latter half of 1948 resulted in inventory losses to handlers holding storage cream. Thus, handlers may be reluctant to store cream in 1949. It is in the interest of producers that handlers should store cream, however.

To encourage the storage of cream during the coming season of flush production, therefore, it is concluded that handlers should be insured against inventory loss on storage cream separated in April through July 1949 to the extent of the butter-cheese differential on that cream used for other than marketing area sour or reconstituted cream. They should not be eligible both for this payment and the regular storage cream payment for butter. Likewise, payment by the handler for cream separated in April through July 1949 and used in sour or reconstituted cream should not result in a butterfat cost to the handler of more than the value of the butterfat at the Class II price in the month used, less four cents per pound of butterfat. The four cents per pound of butterfat should cover somewhat more than half the cost of storage.

The primary purpose for requiring payments on milk and certain milk products shipped to the marketing area from nonpool sources is to eliminate or minimize the danger of such nonpool milk competing unfairly with pool milk.

The Class III price herein recommended appears to be a price at which New York handlers will be able to compete with nonpool handlers in the sale of milk and milk products in the Northeast generally. If that price is a competitive price, then it represents the approximate price at which nonpool milk or milk products might be available for sale in the marketing area. Therefore, payments on nonpool milk or milk products shipped to the marketing area at the difference between the Class III price and the respective Class I or Class II price should put the nonpool handler on approximately the same competitive basis as the pool handler.

Issue No. 7. Class I–C milk shipped to a plant or a purchaser in Maine, Massachusetts, New Hampshire, or Rhode Island should be priced at the same level as Class I–A milk. The butterfat differentials on Classes I–B and I–C should not be changed.

In 1948 the Class I–C price averaged 33 cents below the Class I–A price. This compares with 27 cents in 1947 and 6 cents in 1946. The Class I–C price for the months of October, November and December averaged 5 cents above, 6 cents below, and 49 cents below the Class I–A price in the respective years of 1946, 1947 and 1948. The lower Class I–C price in relation to the Class I–A price results primarily from a combination of lower surplus class prices and higher utilization in the surplus classes. A similar decline in the Class I–C price in relation to the

Class I price under the Boston order has occurred.

Proponents contended on the record that the relationship between the Class I–C price and the Boston Class I price gives New York handlers a competitive advantage over Boston handlers selling milk in southern New England markets. A representative of a Boston handler testified that in recent months outlets in southern New England formerly supplied by that handler had been lost to a New York handler. Compared with a year earlier shipments of Class I–C milk into Rhode Island and Massachusetts have shown some increase in recent months while shipments into Connecticut have declined, and all shipments into New England have increased while total Class I–C sales have declined. Shipments of Boston pool milk into Rhode Island in November and December 1948 were lower than a year earlier.

In recent months Class I–C milk sold in New England has amounted to about 21 percent of total Class I–C and less than 2 percent of total receipts of milk from producers.

In addition to Boston and New York pool milk, other sources of supply for New England secondary markets are local producers and plants not under the Boston or New York orders. The Class I prices to be paid local producers in most of the markets are established by the respective State milk control agencies. Such Class I prices appear to move somewhat in line with New York Class I–A price and the Boston Class I price. Class I milk from plants not under the Boston or New York order is generally priced on the basis of either the Boston or the New York uniform price. Pricing New York milk sold in such markets as the Class I–A price should result in a fairly close relationship between the cost of Boston or New York pool milk and the cost of milk from local producers.

Class I milk for markets in Maine, New Hampshire, Massachusetts and Rhode Island to supplement that supplied by local producers has been supplied in recent years largely from plants regulated by the Boston Federal Order and priced under that order the same as Class I milk in the Boston market. Supplemental supplies for Connecticut markets, on the other hand, have come largely from New York pool milk. The pricing of New York pool milk shipped to markets in Massachusetts, Rhode Island, Maine, and New Hampshire as herein provided will result in a price for such milk the same as the price for fluid milk in the New York marketing area.

Issues 8 and 9. The classes to be included in the requirement for desirable utilization should be changed to the extent of eliminating the present Class II–B from the optional classification to be included.

The requirement concerning the inclusion of Class I–C in the desirable utilization provision should not be changed.

The use of this provision to direct milk into the highest paying surplus class should not be included.

The provision concerning automatic cancellation in the event of lack of health approval on June 15 of any year should be modified to definitely show that health approval in this connection means exactly the same thing as health approval in the requirement for pool plant designation. This modification is one of clarification and not one of substance.

A considerable amount of testimony was offered at the hearing in support of the proposition to use the provision concerning cancellation of pool plants designations for the purpose of channeling milk into the higher paying surplus classes as well as for supplying the market with fluid milk when needed. The basic reason for this proposal appeared to be one of maladjustment of the prices of surplus milk. The whole question of surplus pricing is discussed elsewhere herein. The changes, as elsewhere herein set forth, in the method of pricing surplus milk should minimize, if not eliminate, the need for this type of provision.

Furthermore, the requirement for handlers to be willing to supply the market with milk when needed, is based on the principle that handlers who receive equalization payments under the classified pricing and market-wide pooling system have an obligation to supply the market with fluid milk when needed. In other words, the fact that an order is in existence should not jeopardize the supply of milk for the marketing area simply because the outlets returning the lower prices to producers may be more attractive to handlers. Although the channeling of surplus milk into preferential outlets is a legitimate objective of surplus pricing, there appears to be no valid reason why handlers should be required to subscribe to this principle in order to preserve the pool status of their plants.

Because of the action of the New York City Board of Health permitting cream to enter the marketing area from sources not subject to inspection by the New York City Department of Health, cream for uses in the present Class II–B classification (except storage) no longer is required to come principally from sources that are presently subject to regulation by Order No. 27. Furthermore, the proposed reclassification and change in price for milk handled in such a manner that it is presently classified as II–B makes this utilization one that is no more desirable with respect to its effect on the uniform price than most other surplus uses. Class II–B therefore should be eliminated from the list of classes which the market administrator may include as desirable in a determination of desirable utilization.

A number of witnesses testified that the present requirement that a determination of desirable utilization include certain Class I–C milk to the extent of 50 percent of the milk received from producers might result in handlers outside of the marketing area having an advantage over handlers in the marketing area in obtaining fluid milk in times of short supply. The record did not reveal, however, that such has been the actual experience under the operation of the present provision. Furthermore, the record indicates that problems during the next few months will be those associated with the handling of surplus milk rather than with a shortage of milk.

Issues Nos. 10, 11, and 12. Milk used in a product not specifically named in some other class should be classified as Class III. Fluid milk products and fluid cream products should be classified the same as milk and cream respectively. The order should be changed to provide that milk drinks containing more than 5 percent of butterfat should be classified as Class II if sold in the marketing area and Class III if sold outside, and that milk drinks containing less than 3 percent of butterfat should be classified as Class III if sold outside the marketing area.

The requirement that pool milk or cream at a nonpool plant be assigned to any excess plant loss before pro rata assignment to all products leaving the plant should be continued. Milk or cream shipped to a nonpool plant should be classified at either the pool plant or the nonpool plant according to the shipping handler's election. The classification of cream used in standardizing milk should continue to be Class I–A, Class I–B, or Class I–C.

Milk shipped into the marketing area in the form of cream and assigned to ice cream or cream cheese at either the first or second plants in the marketing area should be classified at such plants. Otherwise milk shipped into the marketing area in the form of milk or cream should be classified according to the form in which it leaves the shipping plant.

No change should be made in the provisions concerning the classification of milk shipped in the form of milk or cream more than 65 miles to plants in certain specified areas except as necessary to conform with other recommended changes in the order.

Proposals 11, 12 and 18, providing that milk, once separated, shall be classified no higher than Class II–A, and milk shipped as milk or cream to a nonpool plant shall be classified no higher than the class for milk or cream sold as fluid milk or cream in that area, apparently were prompted by the following effects of the present provisions proposed to be amended:

(1) Class I–A, I–B or I–C classification for cream used in standardization of milk.

(2) Class I–A classification of milk or cream assigned to products not specifically named in another class.

(3) Class II–A classification of cream assigned to milk drinks of less than 3 percent butterfat sold in an area where fluid cream is classified in a lower class.

(4) The assignment of pool milk or cream to excess plant loss at a nonpool plant before assignment to products leaving the nonpool plant.

Proposal 21 was also designed to eliminate the requirement that pool milk at a nonpool plant be assigned to excess plant loss prior to a pro rata assignment to all classes at the plant.

Proposals 22 and 23 were also prompted by the fact that the use of milk or cream in making a new manufactured product resulted in a Class I–A classification even though the new product had to compete with similar products made from nonpool milk in other areas.

Proposal 24 would classify milk used to make eggnog in Class II–B. This was due to the fact that eggnog, although made of cream or a mixture similar to ice cream mix, was considered to be a milk drink of more than 3 percent butterfat, or the mixture from which it was made was considered a product not named in the class definitions.

The principal reason given for requesting the changes was that the technical requirements of the present order discouraged nonpool users of milk and cream from buying from handlers under the order. The record revealed that most of the difficulties complained of were due to maladjustments in class definitions rather than with the provisions establishing the basis of classification.

The changes herein recommended in the class definitions will result in milk drinks of less than 3 percent or more than 5 percent butterfat, which are frequently made by adding cream to milk or skim milk, being classified the same as fluid cream distributed in the same area as the milk drinks. Products not named in a specific class are placed in Class III inasmuch as these products must compete with milk from unregulated sources. The one apparent danger in such a shift is that some handler may claim that a product which is essentially fluid milk or fluid cream should be classified as Class III because its composition varies from the technical definition in the rules and regulations established under the order. The term "fluid milk products," therefore, is included in the Class I–A, I–B, and I–C definitions, and the term, "fluid cream products" is included in the Class II and Class III definitions. The terms milk and cream might be defined to include what is contemplated under the terms fluid milk products and fluid cream products, but because of the special significance of the definitions of these terms for purposes other than administration of the order, it appears advisable to provide a means of defining modifications of milk and cream under a different name and still require the same classifications as for milk and cream.

The provision to permit a handler shipping milk or cream to a nonpool plant to choose whether the milk is to be classified at the pool plant or at the nonpool plant also gives handlers relief with respect to the complaints made. Under this provision, the handler can remove most of the risk of higher classifications by giving up the right to claim lower classifications. This will make it possible for him in most instances to avoid high classification at nonpool plants because of excess plant loss. The handler operating the nonpool plant, however, must still prove that the milk or cream was actually received and handled at the nonpool plant and not shipped to the marketing area in the form of milk or cream. Shipments from the nonpool plant to the marketing area of milk or cream will still be classified as Class I–A and Class II.

Cream used for standardization of milk will still be classified in the same class as the milk so standardized. The present requirements for a complete audit at any plant at which classification is to be determined and for the burden of proof to be upon the handler are continued. No satisfactory reasons were given for making the requested changes in these provisions.

The record with respect to the above topics revealed that a number of the present provisions of the basis of classification were not clear or were subject to misinterpretation. Several of these provisions have been revised for the purpose of clarity only. These include the opening statement, the burden of proof, provisions concerning the plant at which classification is to be determined, and the accounting procedure.

Proposals numbered 13 through 17 were to classify milk in accordance with use in the marketing area rather than at plants outside the marketing area. There were two problems relating to marketing area classification which were particularly stressed. One involved classification at ice cream plants only if the ice cream plant is the first marketing area plant at which the cream is received. It appears from the record that it is often more economical to redistribute cream received in large lots to many small ice cream plants than to ship small lots of cream directly to each plant. Furthermore, there appeared to be no good reason why an additional cream movement should disqualify an ice cream classification for the milk. A provision is included, therefore, for an additional movement of cream in the marketing area prior to classification. This provision, however, does not change the existing provision for the market administrator to determine what constitutes a plant nor does it permit classification at establishments not considered plants for purposes of the order.

A second problem concerning marketing area classification was that involving cream cheese. At present cream received in the marketing area and manufactured into cream cheese is classified as cream at the plant from which it is shipped as cream into the marketing area. The elimination of the manufacture of cream cheese in the marketing area as a basis of classification in the cream cheese class in 1941 caused at least one handler to move his cream cheese manufacturing operations to a country plant and to leave the packaging operation in the marketing area. It was contended that cream cheese was of better quality if manufactured and packaged at the same place and near the market. It was not shown that a marketing area cream cheese outlet was either necessary or particularly desirable as an outlet for producers' milk. However, pursuant to prices herein recommended, it will return to producers the same price as most other surplus outlets.

Except for the two problems mentioned, evidence in the record fails to justify unlimited classification on the basis of marketing area use. The record was vague as to what would be the effect of the proposals as far as returns to producers and auditing problems are concerned.

Furthermore, complete marketing area classification would mean lower total payments on fluid milk and fluid cream shipments to the marketing area because of classification of route returns in classes lower than Class I–A and Class II. Consideration of a change in the order with respect to a lower classification of route returns should be accompanied by consideration of an increase in the Class I–A and Class II prices to offset the reduction in Class I–A and Class II volume.

Proposals 19 and 20 were designed to allow classification at the receiving plant of milk or cream shipped to any plant within 65 miles of any pool plant. The present provisions permit classification at plants to which shipments are made only if they are located within 65 miles of the pool plant where the milk was received from producers (or the plant where the milk was separated in the case of cream). The proposed change is defective in the following respects:

(1) In case of shipments to plants located approximately 65 miles from a number of pool plants, it would be necessary to determine distances from all such pool plants to the plant to which shipment is made.

(2) If the only pool plant within 65 miles of the plant to which shipments were made is a plant operated by a handler other than the shipping handler, the question of classifying milk at the receiving plant would be subject to the continuing designation as a pool plant of a plant over which the shipping handler has no control.

(3) It is based on the illogical principle that exceptions applicable to pool plants which, by reason of their location, may be at a relative disadvantage in the disposition of surplus milk should apply also to other pool plants not so located.

Proposal number 51 would require the market administrator to accept as correct any reported classification of milk in those cases where he would not attempt to conduct an audit. Apparently the cases prompting the proposal were those involving shipments of ice cream mix and storage cream to foreign countries. The changes in classification and pricing as set forth herein should correct most of the alleged inequities.

Issue No. 13. Provisions with respect to storage cream reports, the accounting for storage cream, and the administrative handling of storage cream payments should be modified to provide that:

(1) Storage of cream reports be made by the handler who separates the milk rather than by the handler who receives the milk from producers;

(2) Storage cream payments be based on the month in which the cream is separated, rather than on the month in which the original milk is received from producers;

(3) The handler separating the milk be the handler eligible to receive storage cream payments from the producer settlement fund, or required to make storage cream payments into the producer settlement fund as the case may be; and

(4) Storage cream payments be made on the basis of utilization reports filed not less than two months after the cream is utilized, rather than be made on the basis of specific claims for payments within 30 days after the month of utilization. No provision for assignment by one

handler to another of claims should be included.

The modifications set forth above are substantially those proposed and supported by the industry. They should facilitate the accounting and reporting associated with the storage cream provisions of the order. Such modifications will effect returns to producers only to a minor extent, if at all.

A period within which utilization reports may be filed is established as two months after the month of utilization, rather than three months as proposed by handlers. A period shorter than three months appears adequate in view of other changes in storage cream accounting and reporting procedure.

Provision for assignment of claims for storage cream payments would unnecessarily involve the market administrator in inter-handler cream. Furthermore, inadequate consideration was given to the question of how such a provision would or should tie in with the new provision under which handlers may be required to make payments into the producer settlement fund.

Issue No. 14. The order should be amended to defer for the balance of 1949 determination by the market administrator of a freight zone for any pool plant different from the currently effective freight zone for the plant as previously determined and announced. Otherwise, no change would be made in the order relative to the establishment of freight zones.

A new determination of freight zones pursuant to present provisions of the order would result in changing the freight zone for a substantial number of plants. Minimum class prices and the uniform price payable at a substantial number of plants would also change in relation to other plants. It was contended by handlers and producers that such changes would adversely affect established relations between handlers and producers.

No suitable substitute was presented at the hearing for the method presently provided in the order for determining freight zones. The record does, however, reflect a desire of the industry for further opportunity to formulate a more satisfactory and acceptable method. Adoption of the amendment herein recommended will provide such further opportunity.

Issue No. 15. No change should be made at this time in the present provisions of the order for the payment of location differentials.

Proposals considered at the hearing were to entirely eliminate location differentials, and to modify them by changing both the present rates and the area in which they are paid. Lack of agreement among interested parties is apparent from the record. Many conflicting views were expressed.

The ability of nearby producers, by reason of their location, to sell for fluid use in the New York market or elsewhere a larger portion of their milk than more distant producers makes it appear necessary to continue some form of location differentials.

It appears that a more equitable system of location differentials could be developed. Evidence in the record, however, does not provide an adequate basis for a change with reasonable assurance of significant improvement.

Some features of the plant reflected in proposal number 53, particularly the proposed scaling of rates with relatively minor changes between zones, appear to have merit. Some of the factors included, however, need further study including the problem of properly integrating location differentials with transportation differentials as presently established.

Issue No. 16. The provision requiring payment to the producer settlement fund of monies due producers who cannot be located should be revised only to the extent of providing for payment to the handler in the event that he subsequently locates and pays the producer.

The argument was advanced at the hearing that the provision seeks to impose regulation in a field entirely within the province of State laws and would result in subjecting the handler to double payment. The provision is not a substitute for, or a duplication of, State laws, and will not subject the handler to double payment. It merely avoids relieving the handler of his obligation to pay for milk as required by the order by reason of the disappearance of a producer. The money will not go into or remain in the producer settlement fund if applicable State laws require the money to be paid to an estate, some other lawful claimant, or to the State.

In those cases where the State law requires the handler to maintain a reserve to pay missing producers, the requirement that the producer settlement fund pay the handler in the event that the handler later locates and pays the producer will provide an asset account to offset the reserve account so set up.

Questions concerning the disposal of the money in the producer settlement fund in the event of its liquidation should properly be considered if and when the fund is liquidated.

Issue No. 17. The Class I–B butterfat differential and pounds of butterfat should be included in the computation of the producer butterfat differential.

The Class I–B butterfat differential and butterfat pounds have in the past been excluded from the computation of the producer butterfat differential for the reason that when that provision was adopted the Class I–B price and butterfat differential was the same as the Class I price and butterfat differential in the area into which the milk was shipped; and because of the possibility that the butterfat differential in that area might not be available by the fifth of the month, by which date the market administrator is required to announce the producer butterfat differential. Now that the Class I–B butterfat differential is fixed at 4 cents, the reason for excluding the Class I–B butterfat differential and butterfat pounds no longer exists. The effect of this change on the amount of the producer butterfat differential will be extremely minor.

Issue No. 18. The present provision of the order limiting to I–A, I–B, I–C, II–A and II–B the classes of milk on which handlers are required to make payments for administration of the order should be deleted. Such payments should be made on all milk received from producers.

Changes herein provided in the classes of milk require some conforming change in the classes of milk on which payments for expense of administration are made. Any significant reduction in the volume of milk on which payments for expense of administration are made, without a compensating increase in the maximum 2-cent rate, would probably produce insufficient funds.

Payments at a higher rate per hundredweight on fewer classifications of milk would increase the share of administration expense borne by handlers of certain classifications. Evidence in the record fails to justify that result. Expense incurred in the administration of the order was not shown to be associated with particular classes of milk.

Issue No. 19. All of the hearing notice proposals listed under Issue No. 19, with the exception of No. 28, or such modifications of them as may be necessary because of other amendments set forth in this decision, should be adopted. None of these proposals are substantive but are either of an editorial nature or incidental to other amendments. Proposal No. 28 is superseded by later proposals and thus becomes obsolete.

Hearing Notice items 1, 2, 29, 49, 64, 69, and 84 are of an editorial nature. Items 68, 73, 74, 80, 82, 83, and 85 are incidental to other proposed amendments contained in the hearing notice. Modifications of some of these items are necessary to conform to modifications of other hearing notice proposals.

Rulings on proposed findings and conclusions. The arguments contained in the briefs filed by interested parties and the proposed findings and conclusions set forth therein were carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. Although some of the briefs do not contain specific requests to make proposed findings and conclusions, it is assumed that they were submitted with that intention and are treated accordingly. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

Recommended amendments to the order. The following amendments to the order are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. It is recommended, however, in view of the numerous amendments herein recommended and heretofore issued since the last issuance of an amended order, that an amended order, rather than an amendment to the order, be issued as a part of the final decision on the issues in this record. A proposed marketing agreement is not included in this report because the regulatory provisions thereof would be the same as those contained in

the order, as amended, and as proposed here to be further amended.

1. Amend § 927.1 (b) by deleting therefrom the words "or the War Food Administrator,".

2. Delete § 927.1 (l) and (m).

3. Delete § 927.2 (e), and transfer equivalent provisions to § 927.5 (e) and § 927.7 (c) (See recommended amendments 15 and 19).

4. Delete the proviso in § 927.3 (a) (1).

5. Amend § 927.3 (a) (4) (ii) to read as follows:

(ii) The designation of any plant which on June 15 of any year is not approved by a health authority as a source of milk for the marketing area shall be automatically cancelled effective on August 1 of such year unless the absence of such approval is a temporary condition covering a period of not more than 15 days: *Provided,* That the designation of a plant approved by a health authority as a source of milk for the marketing area, even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk at the plant or for shipment of approved skim milk from such plant, shall not be cancelled pursuant to this provision.

6. Amend § 927.3 (a) (4) (iv) (*b*) by changing the last sentence thereof to read: "In addition, such specified classes may include all or a part of Class II and other I–C."

7. Amend § 927.4 (a) to read:

(a) *Basis of classification.* All milk the butterfat from which is received at a plant at which the classification of milk received from producers is to be determined pursuant to subparagraph (3) of this paragraph, and all milk entering the marketing area in the form of milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products or skim milk, shall be classified in accordance with the form in which it is held at, or moved from, the plant at which classification is determined. Such classification shall be subject to the following conditions:

(1) *Burden of proof.* In establishing the classification of milk received from producers, the burden rests upon the handler who received the milk from producers to show that the milk should not be classified as Class I–A, and that the skim milk in Class II and Class III milk should not be subject to the fluid skim differential. The burden rests upon the handler who receives or distributes in the marketing area milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk to establish the source of all his milk or milk products.

(2) *Period for establishing classification.* A period ending with the last day of the month following the month during which milk was received from dairy farmers shall be allowed for handling such milk as a basis for establishing the classification as other than Class I–A: *Provided,* That the holding of milk in the form of cream in a licensed cold storage warehouse for at least 7 days shall constitute that portion of the handling of such cream required pursuant to paragraph (c) (5) (ii) of this section that is required to be performed during the month following its receipt from dairy farmers.

(3) *Plant at which classification is to be determined.* Classification shall be determined at the plant at which milk is received from dairy farmers: *Provided,* That if such milk is shipped in the form of milk or cream to another plant or other plants, it shall be classified, subject to the provisions of (i) through (vi) of this subparagraph, at the plant or plants to which it is shipped, and there shall be no limit on the number of interplant movements in the form of milk or cream except as set forth in (i) through (vi) of this subparagraph.

(i) The classification of milk shipped in the form of milk to a plant in the marketing area shall be determined at the plant from which such milk is shipped to the plant in the marketing area.

(ii) Except as set forth in (iii) of this subparagraph, the classification of milk the butterfat from which is shipped in the form of cream to a plant in the marketing area shall be determined at the plant from which such cream is shipped to the plant in the marketing area.

(iii) The classification of milk the butterfat from which is shipped in the form of cream to a plant in the marketing area shall be determined, if such cream is moved in the form of frozen desserts or homogenized mixtures or cream cheese either from the plant at which cream is first received in the marketing area or from the first plant to which cream is shipped from the plant where first received in the marketing area, at the first plant from which the frozen desserts or homogenized mixtures or cream cheese are so moved.

(iv) Except as set forth in (v) and (vi) of this subparagraph, the classification of milk shipped in the form of milk and of milk the butterfat from which is shipped in the form of cream to a nonpool plant shall be determined at the nonpool plant, unless the handler operating the pool plant from which such shipments are made to the nonpool plant elects in writing on his monthly reports to have classification of all milk or cream received during the month at such handler's pool plant and shipped as milk or cream to the nonpool plant determined at the pool plant from which the milk or cream is shipped to the nonpool plant.

(v) The classification of milk shipped in the form of milk more than 65 miles from the plant where received from dairy farmers, to a plant outside New York State, Vermont, New Jersey, or Pennsylvania, or to a plant in the county of Allegheny, Beaver, Fayette, Greene, Washington or Westmoreland in Pennsylvania shall be determined at the plant from which the milk is so shipped.

(vi) The classification of milk the butterfat from which is shipped in the form of cream to a plant more than 65 miles from the plant where the milk was separated to a plant outside New York State, Vermont, New Jersey, or Pennsylvania, or to a plant in the county of Allegheny, Beaver, Fayette, Greene, Washington or Westmoreland in Pennsylvania shall be determined at the plant from which the cream is so shipped. This provision shall not apply to milk received from dairy farmers during April, May or June if such shipment is to a plant in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Pennsylvania, Maryland, Delaware, or Ohio.

(4) *Plant loss.* Allowances for plant loss not to exceed 5 percent of the butterfat in the product resulting from any specific plant operation, which plant loss may be classified the same as the milk equivalent of the butterfat in the product, shall be determined by the market administrator pursuant to paragraph (b) of this section.

(5) *Accounting procedure.* The accounting procedure for classifying milk pursuant to this section shall be set up by the market administrator pursuant to paragraph (b) of this section. Such accounting procedure shall include conversion factors to be used in the absence of specific weights and tests, specific definitions of products, and such methods for assignment of milk to classes according to source and form as may be necessary to effectuate the provisions of this section and which are not inconsistent with the following general principles:

(i) Milk, fluid milk products, cream, fluid cream products and skim milk received from pool plants or from producers shall be assigned, as far as possible, to Class I–A, Class II, or to skim milk subject to the fluid skim differential.

(ii) If milk, cream, or skim milk is received at a plant from producers or from pool plants and in like form from dairy farmers not producers or from nonpool plants, the total milk equivalent of such products from producers and pool plants, and the total milk or milk equivalent from dairy farmers not producers and non-pool plants shall be assigned pro rata to the total classification of all such milk or milk equivalent and to all skim milk subject to the fluid skim differential after the assignment in accordance with (i) of this subparagraph.

(iii) The milk received from producers which is eliminated from the computation of the handler's net pool obligation pursuant to § 927.7 shall be assigned pro rata to the total classification of all milk from producers and pool plants.

8. Amend § 927.4 (c) to read:

(c) *Classes of utilization.* Subject to all of the conditions set forth in paragraphs (a) and (b) of this section, milk should be classified at the plant at which classification is to be determined as follows:

(1) Class I–A milk shall be all milk, except as provided in (2) and (3) of this paragraph, the butterfat from which leaves or is on hand at the plant in the form of milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and all milk the classification of which is not established in some other class named in this paragraph.

(2) Class I–B milk shall be all milk the butterfat from which leaves the plant in the form of milk, fluid milk products,

or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which is delivered to a plant or a purchaser in Maine, New Hampshire, Massachusetts, Rhode Island or an area regulated by another order of the Secretary and remains outside the marketing area.

(3) Class I–C milk shall be all milk the butterfat from which leaves the plant in the form of milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which except as provided in (2) of this paragraph, is delivered to a plant or a purchaser in an area not regulated by another order of the Secretary and remains outside the marketing area.

(4) Class II milk shall be all milk the butterfat from which leaves or is on hand at the plant in the form of cream, sweet or sour, fluid cream products, or in the form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, unless such cream, fluid cream products, or cultured or flavored milk drinks are established to have been so handled or marketed as to classify such milk in some other class named in this paragraph.

(5) Class III milk shall be all milk which meets the conditions set forth in any one of the following subdivisions:

(i) All milk the butterfat from which leaves or is on hand at the plant in the form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat or in the form of cream, or fluid cream products which cream, fluid cream products, or cultured or flavored milk drinks are delivered to a plant or a purchaser outside the marketing area and remain outside the marketing area.

(ii) All milk the butterfat from which leaves or is on hand at the plant in the form of cream which is subsequently held in a licensed cold storage warehouse for at least 28 days, and which is subject at all times until utilization of such cream to being inspected by a representative of the market administrator to determine the physical presence of the cream. After the first 7 days, such cream may be moved from one licensed cold storage warehouse to another: *Provided*, That the market administrator receives notice of such removal within 7 days thereafter. Any handler whose report claimed the original classification of milk pursuant to this subdivision shall be liable under the provisions of § 927.9 (e) for the difference between the Class II and Class III prices for the month in which the Class III classification was claimed on any such milk if the storage of cream does not comply with all the requirements of this subdivision.

(iii) All milk the butterfat from which leaves or is on hand at the plant in the form of some product the classification of which is not established in some other class named in this paragraph.

9. Delete the second paragraph from that portion of § 927.5 which precedes paragraph (a).

10. Renumber § 927.5 (a) (3) and (4) as § 927.5 (a) (2) and (3), respectively.

11. Renumber paragraph (a) (5) of § 927.5 as (a) (4); delete that portion preceding the table, and substitute therefor the following:

(4) For Class II milk the price during each month shall be the sum of the amounts computed pursuant to (i) and (ii) of this subparagraph.

Designate the table in paragraph (a) (5) (renumbered (a) (4)) of § 927.5 as subdivision (i), and add a new subdivision (ii) as follows:

(ii) Multiply by 7.5 the average of all the hot roller process nonfat dry milk solids quotations for "other brands, human consumption, carlots, bags, or barrels," (using midpoint of any range as one quotation) published for the delivery period in "The Producers' Price-Current," and subtract 48 cents.

12. Delete § 927.5 (a) (6) through (15) and add a new paragraph (5) as follows:

(5) For Class III milk, the price shall be computed as follows: multiply the applicable butterfat value computed pursuant to (i), (ii) or (iii) of this subparagraph by 3.5, add an amount obtained by multiplying by 7.5 the average of all hot roller process nonfat dry milk solids quotations for "other brands, human consumption, carlots, bags, or barrels" (using midpoint of any range as one quotation) published for the delivery period in "The Producers' Price-Current," subtract 10 cents (transportation allowance) and subtract 70 cents (handling allowance). The butterfat value for the months of August through February shall be computed pursuant to (i) of this subparagraph; the butterfat value for the months of March through July shall be computed pursuant to (i) or (ii) of this subparagraph whichever is lower: *Provided*, That in no month of the year shall the butterfat value be lower than that computed pursuant to (iii) of this subparagraph.

(i) Divide the weighted average price per 40 quart can of 40 percent bottling quality cream in the Boston market as reported by the United States Department of Agriculture for such month by 33.48. In the event that no such price is reported, the butterfat value shall be computed pursuant to (iii) of this subparagraph.

(ii) To the average of the highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92 score butter at wholesale in the New York market add three cents and multiply by 1.24.

(iii) To the average of highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92 score butter at wholesale in the New York market add two cents and multiply by 1.24.

13. Amend § 927.5 (b) to read:

(b) *Butterfat differentials.* The minimum price for Class I–A, Class I–B, and Class I–C milk shall be plus or minus 4 cents for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent. The minimum price for Class II and Class III milk shall be plus or minus, for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent, an amount computed as follows: subtract from the respective class prices an amount computed pursuant to (a) (4) (ii) of this section, and divide by 35.

14. Amend § 927.5 (c) as follows:

a. Add to the first sentence in § 927.5 (c) (1) the following proviso: "*Provided*, That no new freight zone for any pool plant for which a previously determined freight zone is in effect for the month of March 1949 shall be established by the market administrator for any month prior to January 1950."

b. Change the headings of Columns B and C of the table in § 927.5 (c) (1) to read: "Classes I–A, I–B and I–C and skim milk subject to the fluid skim differential and Classes II and III, respectively."

c. Delete subparagraphs (2) and (3) of § 927.5 (c).

15. Add to § 927.5 paragraphs (d), (e), (f), and (g) as follows:

(d) *Butter-cheese differential.* (1) For milk received from producers which is classified as Class III pursuant to § 927.4 (c) (5) (iii), and which leaves or is on hand at the plant at which classification is determined in the form of butter or Cheddar, American Cheddar, Colby, washed curd, or part skim Cheddar cheese, there shall be credited to the handler receiving the milk from producers 4 cents per pound of butterfat in such milk: *Provided*, That for such milk received from producers at a plant in a freight zone farther from New York City than the 321–325 mile zone, there shall be deducted from the amount so credited the following amounts per hundredweight of milk:

Zones of plant:	*Cents per hundredweight*
326–350	1
351–375	2
376–400	3
401–425	4
426–450	5
451–475	6
476–500	7

(2) The market administrator shall publicly disclose the location of each plant and the name of its operating handler, the receipts at which milk received from producers exceeding an average of 4,000 pounds per day is reported by the handler to have been utilized in butter or in Cheddar, American Cheddar, Colby, washed curd or part skim Chedder cheese. Such public disclosure shall be made monthly on the basis of handler's monthly reports, and may be made more frequently on the basis of such other utilization reports as may be required by the market administrator.

(e) *Fluid skim differential.* For skim milk derived from Class II or Class III milk which enters the marketing area in the form of milk, fluid skim milk, or in the form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, and for all skim milk which is not accounted for in some product leaving or on hand at a plant, the handler shall

pay a fluid skim differential per hundredweight computed as follows: deduct the price of Class II milk computed pursuant to (a) (4) of this section from the price for Class I–A milk computed pursuant to (a) (1) of this section, and divide by 0.9125.

(f) *Use of equivalent prices.* If for any reason a price (or prices) for milk or any milk product specified in this section for use in computing and announcing class prices and for other purposes is not reported or published in the manner therein described, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

(g) *Announcement of prices.* The market administrator shall compute and publicly announce prices as follows:

(1) Not later than the 25th day of each month:

(i) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of the highest prices reported daily by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market.

(ii) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of prices (using the midpoint of any range as one quotation) reported daily in "The Producers' Price—Current" for hot roller process dry skim milk or nonfat dry milk solids "other brands, human consumption, carlots, bags or barrels."

(iii) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of the prices (using the midpoint of any range as one quotation) reported daily in "The Producers' Price—Current" for hot roller process dry skim milk or nonfat dry milk solids "other brands, animal feed, carlot, bags, or barrels."

(iv) The simple average of the averages computed pursuant to (ii) and (iii) of this subparagraph.

(v) The preliminary Class I–A price for the following month pursuant to (a) (1) of this section.

(vi) The preliminary calculation for the following month pursuant to (a) (4) (i) of this section.

(2) Not later than the 5th day of each month for the preceding month:

(i) The minimum class prices, pursuant to (a) of this section.

(ii) The butterfat differentials, pursuant to (c) of this section.

(iii) The butter and cheese differential, pursuant to (d) of this section.

(iv) The fluid skim differentials, pursuant to (e) of this section.

(v) The weighted average price, as reported by the United States Department of Agriculture, per 40 quart can of 40 percent bottling quality cream in the Boston market.

(vi) The average of the highest prices reported daily by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market.

(vii) The average of the prices (using midpoint of any range as one quotation) reported daily in "The Producers' Price—Current," for hot roller process dry skim milk or nonfat dry milk solids "other brands, human consumption, carlots, bags, or barrels."

16. Delete paragraph (c) of § 927.6 and substitute therefor the following:

(c) *Storage cream reports.* (1) On or before the last day of the period for establishing classification pursuant to § 927.4 (a) (2), or, if earlier, not later than 15 days prior to the date of final removal of the cream from storage, each handler who separates milk the cream from which is stored as a basis for Class III classification pursuant to § 927.4 (c) (5) (ii) shall report to the market administrator on forms prescribed by the market administrator information with respect to the storage of cream. Failure to make such report shall result in the disallowance of Class III classification pursuant to § 927.4 (c) (5) (ii).

(2) The handler who made reports pursuant to (1) of this paragraph shall report to the market administrator, not later than the end of the second month following the month during which frozen cream is utilized, information with respect to the utilization of such cream. Failure to make such reports shall result in the disallowance of storage cream payments pursuant to § 927.9 (g) (2).

17. Amend the second sentence of § 927.7 by deleting "in (d) and (f) of § 927.9 and in § 927.10" and by substituting therefor "in (d) of § 927.5, in (d), (f) and (g) of § 927.9 and in § 927.10".

18. Amend § 927.7 (a) (2) to read:

(2) Subject to adjustment for appropriate differentials pursuant to § 927.5 (b) and (c), multiply the Class I–C milk by 20 cents per hundredweight, multiply the remaining milk in each class by the class price, multiply the skim milk subject to the fluid skim differential by the fluid skim differential per hundredweight, and add together the resulting values;

and renumber paragraphs 5 and 6 in § 927.7 (a) as 6 and 7, respectively, and add a new paragraph (5) as follows:

(5) Deduct the amount of the butter and cheese differential pursuant to § 927.5 (d);

19. Add to § 927.7 a paragraph (c) to read:

(c) *Announcement of uniform price and weighted average butterfat differential.* The market administrator shall announce not later than the 14th day of each month, the uniform price computed pursuant to (b) of this section, and not later than the 5th day of each month, the weighted average butterfat differential pursuant to § 927.8 (c).

20. Amend § 927.8 (a) by changing the second proviso therein to read: *"Provided further,* That if a handler claims that he cannot make the required payment because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, such payment shall be made to the producer settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make such payment from the producer settlement fund to the handler or to the lawful claimant as the case may be."

21. In § 927.8 (b) (2) change the section reference from § 927.7 (a) (5) to § 927.7 (a) (6).

22. Amend § 927.9 (g) to read:

(g) *Storage cream payments.* (1) For milk received from producers which is classified as Class III pursuant to § 927.4 (a) (5) (ii) the butterfat from which is subsequently assigned in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b) to sour cream or reconstituted cream shipped to, received in, or distributed in the marketing area, or is not established to have been otherwise utilized, the handler required to file reports pursuant to § 927.6 (c) (2), shall pay to the producer settlement fund or be issued debits against balances due to such handler from the producer settlement fund an amount equal to 10 cents per pound of butterfat if the milk was separated in the months of March through July, and 11 cents per pound of butterfat if the milk was separated in the months of August through February: *Provided,* That for butterfat in such milk separated in the months of April through July 1949, the payment shall be no greater than an amount computed as follows: multiply by 10 the Class II butterfat differential for the month when the butterfat was utilized in sour cream or reconstituted cream, subtract 4 cents, and subtract 10 times the butterfat differential for Class III for the month during which the cream was separated.

(2) On the basis of reports pursuant to § 927.6 (c) (2) of the utilization of frozen cream which cream was separated from milk received from producers, and the market administrator's investigation and audit of such reports, the market administrator shall make payment out of the producer settlement fund to the handler filing such reports, or issue credit against balances due from such handler to the producer settlement fund, an amount equal to and under conditions set forth in (i) and (ii) of this subparagraph.

(i) For cream which was separated in the months of April through September and was assigned, in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b), to butter in the months of January through March, an amount per pound of butterfat equal to the butter-cheese differential.

(ii) For cream which was separated in the months of April through July 1949 and was assigned, in acordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b), to products other than sour cream or reconstituted cream shipped to, received in, or distributed in the marketing area, or other than to

butter in the months of January through March, any amount by which the butterfat value used in computing the Class III price for the month in which the butterfat was assigned is lower than the butterfat value used in computing Class III price for in the month in which the milk was separated: *Provided,* That the amount per pound of butterfat shall be no greater than the butter-cheese differential.

23. Amend § 927.9 (h) (1) and (2) to read:

(h) *Payments for milk or milk products from other than producer sources.* (1) Payment shall be made by handlers to producers, through the producer-settlement fund, for milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk, which milk or milk product meets each of the following provisions:

(i) It was derived from milk received at some plant from dairy farmers (other than the handler operating such plant) who are not producers:

(ii) It was received at a plant in, or delivered to a purchaser in the marketing area, or was received at a pool plant outside the marketing area and assigned either to shipments to the marketing area of milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk, or to plant loss; and

(iii) The milk or milk equivalent of the butterfat is classified as Class I–A or Class II, or the skim milk is subject to the fluid skim differential.

(2) The amount of payment for the product set forth in (1) of this paragraph shall be as follows:

(i) If the milk, or the milk equivalent of the butterfat, or the skim milk is classified and paid for under another order issued pursuant to the act, the amount of payment on such product except skim milk shall be any plus amount obtained by subtracting the value of the milk or the milk equivalent of the butterfat at the class price or prices under such order from the value computed in accordance with the classification and pricing set forth herein. The amount of payment on skim milk shall be an amount computed pursuant to § 927.5 (e).

(ii) If the milk or milk products is derived from milk the handling of which is not regulated by another order issued pursuant to the act, the amount of payment shall be as follows: for milk, fluid milk products, or for cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the difference between the value of such milk, fluid milk products, or cultured or flavored milk drinks at the Class I–A price in the 201–210 mile zone and the Class III price in the 201–210 mile zone; for cream, fluid cream products, or for cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, the difference between the value of the milk equivalent of such cream, or milk drinks at the Class II price and at the value computed at the Class III (milk equivalent in each case to be computed on the basis of milk containing 3.5 percent of butterfat); and for skim milk (either as skim milk or in cultured or flavored milk drinks), the amount computed pursuant to § 927.5 (e).

(iii) In the event that the source of such milk or milk product is not revealed, the amount of payment on such milk and milk product except skim milk shall be the full value at the class price in the 201–210 mile zone. The amount of the payment on such skim milk shall be the amount computed pursuant to § 927.5 (e).

24. Amend § 927.10 (a) by deleting therefrom the words "and which was properly classified as Classes I–A, I–B, I–C, II–A, and II–B,".

Filed at Washington, D. C., this 21st day of February 1949.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 49–1452; Filed, Feb. 23, 1949; 10:47 a. m.]

[7 CFR, Part 936]

FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO AMENDED MARKETING AGREEMENT AND ORDER

Correction

The following changes are made in Federal Register Document 49–1251, appearing at page 697 of the issue for Thursday, February 17, 1949:

1. In paragraph (7) of the "Material issues" the third line should read: "regulation theretofore issued and then".

2. In the 7th paragraph of paragraph (1) of the "Findings and conclusions" the word "produces" in the 14th line should read "produce".

3. In the 12th paragraph of paragraph (1) of the "Findings and conclusions" the comma appearing in the next to the last line should be deleted.

4. In paragraph 3 of the "Recommended amendments to the marketing agreement and order" the reference to § 931.1 (k) should read "§ 936.1 (k)".

5. In paragraph 10 of the "Recommended amendments * * *" the 31st line of paragraph (j) should read: "hours succeeding the termination of the".

6. In paragraph 14 of the "Recommended amendments * * *" the comma in the last line should be deleted.

CIVIL AERONAUTICS BOARD

[14 CFR, Part 228]

[Draft Release No. 37]

FREE AND REDUCED RATE TRANSPORTATION

ACCESS TO AIRCRAFT FOR SAFETY PURPOSES

Notice is hereby given that the Civil Aeronautics Board has under consideration the proposed amendment of § 228.3 of the Economic Regulations. The proposed amendment adds provisions requiring air carriers to carry without charge officers or employees of the Civil Aeronautics Administration assigned to certain inspection duties upon presentation of a certificate of identity signed by any of the regional administrators of the Civil Aeronautics Administration.

The present regulations provide only for free carriage in response to the presentation of certificates of identity signed by the Secretary of the Board or by the Assistant Administrator for Aviation Safety, Civil Aeronautics Administration. The Acting Administrator of the Civil Aeronautics Administration has requested the Board to authorize recognition of certificates of identity signed by any of the regional administrators of CAA. The proposed amendment has been prepared as a result of this request.

The proposed amendment is set forth in the attached proposed rule.

This amendment is proposed under the authority of sections 205 (a), 601–610 of the Civil Aeronautics Act of 1938, as amended.

Interested persons may participate in the proposed rule making through submission of written data, views or arguments pertaining thereto, in triplicate, addressed to the Secretary, Civil Aeronautics Board, Washington 25, D. C. All relevant matter in communications received on or before March 17, 1949 will be considered by the Board before taking final action on the proposed rule.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

It is proposed to amend § 228.3 *Access to aircraft for safety purposes,* by revising paragraph (b) to read as follows:

(b) *Requests for access to aircraft.* Such carriage without charge shall be granted, (1) on presentation to the appropriate agents of the air carrier of a certificate identifying the person presenting it as being entitled to such carriage signed by the Secretary of the Civil Aeronautics Board, or by the Assistant Administrator for Aviation Safety of the Office of the Administrator of Civil Aeronautics, or by any of the regional administrators of the Civil Aeronautics Administration, and signed by the person presenting it; and (2) on delivery to the appropriate agents of the air carrier, in duplicate, a "Request for Access to Aircraft" on a form supplied by the Board or by the Administrator stating that the signer thereof desires access to a certain aircraft of the air carrier from a named point of departure on a designated date and hour to a named destination for the purpose of performing his official duties during flight of such aircraft. The air carrier shall retain one copy of each such request. On or before the 10th day of each month, each air carrier shall forward one copy of all such requests received by it during the second preceding calendar month to the Secretary of the Civil Aeronautics Board, Washington 25, D. C.

[F. R. Doc. 49–1416; Filed, Feb. 23, 1949; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

CLASSIFICATION ORDER

FEBRUARY 14, 1949.

1. Pursuant to authority delegated to me by the Director, Bureau of Land Management, by Order No. 323, dated August 3, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify, as hereinafter indicated, under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended, the following described public lands in the Phoenix, Arizona land district, embracing approximately 241.98 acres:

ARIZONA SMALL TRACT CLASSIFICATION NO. 14

For lease and sale, for home, cabin, camp, health, convalescent and recreational sites.

T. 3 N., R. 3 E., G. & S. R. B. & M., Arizona, Sec. 11, E½SE¼.
T. 4 N., R. 2 E., G. & S. R. B. & M., Arizona, Sec. 31, lot 5 (SE¼SW¼), lot 6 (SW¼SE¼), lot 7 (SE¼SE¼).

2. Pursuant to § 257.8 of the Code of Federal Regulations (43 CFR, Part 257), a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to 10 a. m. on April 9, 1946, and (b) are for the type of site for which the land subject thereunder has been classified. As to such applications, this order shall become effective upon the date upon which it is signed.

3. As to the land not covered by the applications referred to in paragraph 2, this order shall not become effective to permit the leasing of such land under the Small Tract Act of June 1, 1938, cited above until 10:00 a. m. on April 19, 1949. At that time such lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for other preference-right filings.* For a period of ninety days from 10:00 a. m. on April 19, 1949, to close of business on July 18, 1949, inclusive, to (1) application under the Small Tract Act of June 1, 1938 by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. 279), as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed at 10:00 a. m. on April 9, 1946, or thereafter up to and including 10:00 a. m. on April 19, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public land laws.* Commencing at 10:00 a. m. on July 19, 1949, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the Small Tract Act by the general public filed at 10:00 a. m. on April 9, 1946, or thereafter, up to and including 10:00 a. m. on July 19, 1949 shall be treated as simultaneously filed.

4. Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

5. All applications referred to in paragraphs 2 and 3, which shall be filed in the district land office at Phoenix, Arizona, shall be acted upon in accordance with § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938 shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

6. Lessees under the Small Tract Act of June 1, 1938 will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances are presentable, substantial and appropriate for the use for which the lease was issued. Leases will be for a period of not more than five years at an annual rental of $5.00, payable for the entire lease period in advance of the issuance of the lease.

7. All leases issued will contain an option to purchase clause at the appraised values hereinafter set out and application for such purchase may be filed at or after the expiration of one year from the date the lease issued, provided that all conditions of the lease have been complied with.

The appraised values at which said lands may be purchased are as follows:

T. 3 N., R. 3 E., G. & S. R. B. & M., Arizona:	
Sec. 11, E½E½SE¼, per five-acre tract	$100
Sec. 11, W½E½SE¼, per five-acre tract	50
T. 4 N., R. 2 E., G. & S. R. B. M., Arizona:	
Sec. 31, Lot 5 (SE¼SW¼), lot 6 (SW¼SE¼), lot 7 (SE¼SE¼), per five-acre tract	50

8. All of the lands shall be leased in tracts of approximately five acres, each 330 feet by 660 feet. The tracts in the E½SE¼ of Sec. 11 should have the longer dimensions extending east and west. The longer dimensions of the tracts in Sec. 31 should extend north and south. The tracts, whenever possible, must conform in description with the rectangular system of surveys as one compact unit.

9. Preference right leases referred to in paragraph 2 will be issued for the land described in the applications, irrespective of the direction of the tract, provided the tract conforms or is made to conform to the area and dimensions specified above.

10. Where only one five-acre tract in a ten-acre subdivision is embraced in a preference right application, the manager is authorized to accept applications for the remaining 5-acre tract extending in the same direction so as to fill out the subdivision, notwithstanding the direction of the tract may be contrary to that specified in paragraph 8.

11. Tracts will be subject to rights-of-way not exceeding 33 feet in width along or near the edges thereof for road purposes. Such rights-of-way may be utilized by the Federal Government, or the State, County or municipality in which the tract is situated, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to issuance of patent. If not so located, they may be subject to location after the patent is issued.

12. Survey of individual tracts will be at the expense of the applicant for purchase and the cost of such survey may be added to the purchase price.

13. All leases and patents issued shall contain a reservation to the United States of all fissionable material sources and all minerals together with the right or prospect for, mine and remove the same under applicable laws and regulations.

14. All inquiries relating to these lands shall be addressed to the Manager, United States District Land Office, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator.

[F. R. Doc. 49-1390; Filed, Feb. 23, 1949; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Office of Industry Cooperation

VOLUNTARY PLAN UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR MANUFACTURE OF ORE CARS

The Secretary of Commerce, pursuant to the authority vested in him by Public Law 395, 80th Congress, and Executive Order 9919, after consultation with representatives of the steel producing industry, with the manufacturer of certain ore cars, and with representatives of the National Military Establishment and other interested government agencies, and after expression of the views of industry, labor and the public generally at

an open public hearing held on December 7, 1948, has determined that the following plan of voluntary action is practicable and is appropriate to the successful carrying out of the policies set forth in Public Law 395:

1. *What this Plan does.* Manganese has been designated by the Munitions Board as a strategic and critical material and a program for the procurement of that material for stockpiling has been established in accordance with applicable law, including Public Laws 520 and 521, 79th Congress. In furtherance of that procurement program and in aid of American industry, this Plan sets up the procedure under which steel producers (hereinafter called producers) agree voluntarily to make certain steel products available, at producers' mills in the United States, to Canadian Car and Foundry Company, Limited, Montreal, Canada (hereinafter called the participating manufacturer), for use in the manufacture of 2,000 ore cars (bogie wagons) for the Union of South Africa Railways, to be used in the transportation of manganese-bearing ore from South African mines to tidewater.

2. *Agreement by steel producers.* During the period this Plan remains in effect, producers will make available, out of their own production or that of their producing subsidiaries or affiliates, to the participating manufacturer, an average monthly total of 2,192 net tons of steel products (up to an aggregate total of approximately 13,000 net tons), distributed by types approximately as follows:

Type:	*Net tons per month*
Structural shapes	445
Sheets	722
Plates	1,025
Total	2,192

Producers will, from time to time, however, upon request of the Secretary of Commerce, give consideration to making additional quantities available, or to accelerating the monthly deliveries provided for above.

3. *Determination of quantities to be furnished by respective producers.* Unless otherwise specified in its acceptance of this Plan, the quantities to be made available by each producer, as its commitment under this Plan, will be such as the Secretary of Commerce, after consulting the Steel Task Committee of the Office of Industry Cooperation of the Department of Commerce, determines to be fair and equitable. Producers will take credit against their commitments under this Plan only for quantities delivered to the participating manufacturer on orders certified in accordance with paragraph 9 below.

4. *Contractual arrangements.* Such products will be made available under such contractual arrangements as may be made by the respective producers, or their producing subsidiaries and affiliates, with the participating manufacturer. This plan does not authorize nor approve any fixing of prices, and participation in this Plan does not affect the prices or terms and conditions on which any steel products are actually sold and delivered.

5. *Limitations as to types, sizes and quantities.* A producer need make available under this Plan only those products which are within the type and size limitations of the mill or mills which it may select for the fulfillment of its commitment under this Plan. The quantities which it may have undertaken to make available in any month may be reduced, or at its option their delivery may be postponed, in direct proportion to any production losses during the month due to causes beyond its control.

6. *Reports from steel producers.* Each producer will, if requested by the Office of Industry Cooperation of the Department of Commerce (subject to approval of the Bureau of the Budget under the Federal Reports Act of 1942), submit to that office periodic reports of the total quantities, by types, of products shipped, and accepted for shipment, under the Plan.

7. *Reports from participating manufacturer.* The participating manufacturer will submit such reports as may be requested from time to time by the Secretary of Commerce (subject to the approval of the Bureau of the Budget under the Federal Reports Act of 1942).

8. *Obligations of participating manufacturer.* By participation in this Plan, the participating manufacturer shall be obligated as follows: To use all products obtained under this Plan solely for and in the manufacture of the ore cars referred to in paragraph 1 above; not to resell nor transfer any products so obtained under this Plan in the form received by the said participating manufacturer; and not to build up, beyond current needs, any inventories of products obtained under this Plan. If the participating manufacturer becomes unable to use, for the purposes of this Plan, any products obtained under the Plan, it shall be further obligated to hold them subject to such disposition (including return to the producer from whom purchased) as shall be authorized by the Office of Industry Cooperation of the Department of Commerce.

9. *Procedure for placing orders under this plan.* Purchase orders under this Plan are to be placed with participating producers, or their producing subsidiaries or affiliates. Each such purchase order shall bear the following certification by the participating manufacturer:

DEPARTMENT OF COMMERCE VOLUNTARY PLAN, UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR MANUFACTURE OF ORE CARS

The undersigned certifies to the seller and to the Department of Commerce that the products specified in this order will be used solely for and in the manufacture of ore cars for Union of South Africa Railways, and that this order is placed under, and in strict compliance with, the above Voluntary Plan, with which the undersigned is familiar and in which the undersigned is a participant.

CANADIAN CAR AND FOUNDRY COMPANY, LIMITED,

By _____
(Title of duly authorized officer)

_____
(Date)

10. *Procedure for, and effect of, becoming a participant.* After approval of this Plan by the Attorney General and by the Secretary of Commerce, and after requests for compliance with it have been made of steel producers and of the participating manufacturer by the Secretary of Commerce, any such producer, and the participating manufacturer, may become a participant in this Plan by advising the Secretary of Commerce, in writing, of its acceptance of such request. Such requests for compliance will be effective for the purpose of granting certain immunity from the antitrust laws and the Federal Trade Commission Act, as provided in section 2 (c) of Public Law 395, only with respect to such participants as notify the Secretary of Commerce in writing that they will comply with such requests.

11. *Effective date and duration.* This Plan shall become effective upon the date of its final approval by the Secretary of Commerce. It shall cease to be effective at the close of business on February 28, 1949, unless the time limitation of March 1, 1949, now specified in section 2 (b) of Public Law 395, 80th Congress, is extended or otherwise changed by legislative action in a form which permits continuation of this Plan, in which event this Plan shall thereupon automatically continue in effect through September 30, 1949 (or through the date specified in such legislative action if a date earlier than September 30, 1949, is so specified). However, the Plan may be terminated on such earlier date as may be determined by the Secretary of Commerce, upon not less than 60 days notice by letter, telegram, or publication in the FEDERAL REGISTER.

12. *Withdrawal from Plan.* Any producer or the participating manufacturer may withdraw from this Plan by giving not less than 60 days written notice to the Secretary of Commerce.

13. *Clarifying interpretations.* Any interpretation issued by the Secretary of Commerce (after consultation with the Attorney General), in writing, to clarify the meaning of any terms or provisions in this Plan shall be binding upon all participants notified of such interpretation.

Approved: January 3, 1949.

CHARLES SAWYER,
Secretary of Commerce.

Approved: January 3, 1949.

TOM C. CLARK,
Attorney General.

A REQUEST UNDER PUBLIC LAW 395, 80TH CONGRESS FOR ALLOCATION OF STEEL PRODUCTS FOR MANUFACTURE OF ORE CARS

The Secretary of Commerce, pursuant to the authority vested in him by Public Law 395, 80th Congress, and Executive Order 9919, after consultation with representatives of the steel producing industry, and after expression of the views of industry, labor and the public generally at an open public hearing held on December 7, 1948, has determined that, in order to carry out the program begun under the voluntary plan entered into by steel producers to furnish certain steel products for the manufacture of ore cars, it will be necessary, and is practicable and appropriate to the successful

carrying out of the policies set forth in said Public Law 395, that steel producers make further deliveries of steel products to such manufacture after the expiration of the plan on February 28, 1949.

Therefore, the Secretary of Commerce, in accordance with subsections 2 (c) and 2 (f) of Public Law 395, 80th Congress, and with the approval of the Attorney General, hereby requests:

1. That steel producers participating in the above-mentioned voluntary plan continue to make steel products available, during the period March 1, 1949, through August 31, 1949, on certified orders from Canadian Car and Foundry Company, Limited, such products to be made available in average monthly quantities of approximately 2,192 net tons, up to the aggregate total necessary to complete the program of approximately 13,000 net tons; and that such products be made available in accordance with delivery procedures established under the said plan.

2. That Canadian Car and Foundry Company, Limited, place purchase orders hereunder only for the quantities and types of steel products established for it by the Secretary of Commerce; that it put identifying certifications on such purchase orders; and that it use all steel products obtained hereunder solely for the manufacture of ore cars for Union of South Africa Railways.

In the event that an amendment to the above-mentioned voluntary plan extending its effectiveness beyond February 28, 1949, takes effect pursuant to appropriate legislation, this request will be superseded by said extended plan.

Approved: January 3, 1949.

CHARLES SAWYER,
Secretary of Commerce.

Approved: January 3, 1949.

TOM C. CLARK,
Attorney General.

JANUARY 3, 1949.

GENTLEMEN: Enclosed is one copy of each of two documents which have been approved by the Attorney General and myself under Public Law 395, 80th Congress, and which are captioned respectively as follows:

1. Voluntary Plan under Public Law 395, 80th Congress, for Allocation of Steel Products for Manufacture of Ore Cars, and

2. A Request under Public Law 395, 80th Congress, for Allocation of Steel Products for Manufacture of Ore Cars (to be effective if section 2 of Public Law 395 is not extended by appropriate legislation).

I hereby request compliance by you with the Voluntary Plan, and enclose a suggested form for your use in evidencing acceptance of this request.

I hereby also request compliance by you with the Request for Unilateral Action and enclose a suggested form for your use in acknowledging this request and indicating your intention to comply.

Two copies of each form are enclosed. One copy of each is to be returned to me and one is to be retained for your files.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

NOTE: The above request for compliance with Department of Commerce Voluntary Plan for Allocation of Steel Products for Manufacture of Ore Cars was sent to steel companies listed in an attachment filed with the original document and to the Canadian Car & Foundry Co., Ltd.

[F. R. Doc. 49-1385; Filed, Feb. 23, 1949; 8:45 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order 388]

ACCEPTANCE OF RESIGNATION FROM AND APPOINTMENT TO SPECIAL INDUSTRY COMMITTEE FOR VIRGIN ISLANDS

By virtue of and pursuant to the authority vested in me by section 5 (e) of the Fair Labor Standards Act of 1938, as amended, (section 3 (c), 54 Stat. 615; 29 U. S. C. 205 (e)), I, William R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor, do hereby accept the resignation of Caroline F. Ware from the Special Industry Committee for the Virgin Islands and do hereby appoint in her stead as a representative of the Public on such Committee, Joseph L. Miller of Washington, D. C.

Signed at Washington, D. C., this 16th day of February 1949.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 49-1400; Filed, Feb. 23, 1949; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9193]

STATION OF THE STARS, INC. (KMPC) ET AL.

ORDER CONTINUING HEARING

In the matter of KMPC, Station of the Stars, Inc., licensee of radio Station KMPC, Los Angeles, California; WJR, the Goodwill Station, Inc., licensee of radio Station WJR, Detroit, Michigan; and WGAR Broadcasting Company, licensee of radio Station WGAR, Cleveland, Ohio; Docket No. 9193.

It appearing, that because of urgent commitments of the Presiding Commissioner in the above entitled proceedings, a postponement of the date for the public hearing in this matter, now set for February 21, 1949, is necessary;

It is ordered, On the Commission's own motion, that said public hearing is continued until 10 a. m., March 16, 1949, in the Court Room of the United States Court of Appeals on the Eighth Floor of the Federal Building in Los Angeles, California.

Dated: February 16, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-1404; Filed, Feb. 23, 1949; 8:52 a. m.]

WFTC

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE [1]

The Commission hereby gives notice that on February 10, 1949 there was filed with it an application (BAL-833) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of station WFTC, Kinston, North Carolina, from Jonas Weiland to Kinston Broadcasting Company. The proposal to assign the license arises out of contracts of November 22, 1948 pursuant to which all real and personal property used in the operation of station WFTC and all contracts pertaining to the operation of that station will be assigned to Kinston Broadcasting Company for $61,000, of which $6,100 has been paid in escrow and the balance is payable in cash at the date of the closing. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on February 10, 1949, that starting on February 11, 1949, notice of the filing of the application would be inserted in the Kinston Daily Free Press, a newspaper of general circulation at Kinston, North Carolina, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from February 11, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-1405; Filed, Feb. 23, 1949; 8:52 a. m.]

WJVB

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL [1]

The Commission hereby gives notice that on February 15, 1949 there was filed with it an application (BTC-736) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Jacksonville Beach Broadcasting Company, licensee of station WJVB, from sixteen stockholders, presently owning 275 out of 304 shares of capital stock issued, to Reginald B. Martin and Lester M. Combs. The proposal to transfer control arises out of agreements of September 3 and 15, 1948 pursuant to which the transferor stockhold-

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

ers have agreed to sell their 275 shares for $24,926.27 plus a loan of $8,000 by the transferees to the licensee company. Of the total price payable, $2,000 has been deposited in escrow, $22,926.27 is payable within 15 days after Commission approval, and the $8,000 loan has already been made. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on February 15, 1949 that starting on February 16, 1949 notice of the filing of the application would be inserted in the Jacksonville Journal, a newspaper of general circulation at Jacksonville Beach, Florida in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from February 16, 1949 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-1406; Filed, Feb. 23, 1949; 8:52 a. m.]

WUTV

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF PERMIT [1]

The Commission hereby gives notice that on February 14, 1949 there was filed with it an application (BAPCT-11) for its consent under section 310 (b) of the Communications Act to the proposed assignment of permit for television station WUTV, Indianapolis, Indiana, from the William H. Block Company to Indianapolis Broadcasting, Inc. The proposal to assign the permit arises out of a contract of February 10, 1949 pursuant to which the assignor will transfer certain equipment and other assets to the assignee for a total consideration of $37,758.37, which, the applicants represent, is the assignor's approximate out-of-pocket costs incurred in connection with station WUTC. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on February 14, 1949 that starting on February 14, 1949 notice of the filing of the application would be inserted in the Indianapolis Star, a newspaper of general circulation at Indianapolis, Indiana in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from February 14, 1949 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-1407; Filed, Feb. 23, 1949; 8:52 a. m.]

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

FEDERAL POWER COMMISSION

[Docket No. E-6186]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF ORDER AUTHORIZING AND APPROVING ISSUANCE OF BONDS

FEBRUARY 17, 1949.

Notice is hereby given that, on February 16, 1949, the Federal Power Commission issued its order entered February 15, 1949, authorizing and approving issuance of bonds in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-1386; Filed, Feb. 23, 1949; 8:45 a. m.]

[Docket No. E-6187]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF ORDER AUTHORIZING AND APPROVING ISSUANCE OF SECURITIES

FEBRUARY 17, 1949.

Notice is hereby given that, on February 16, 1949, the Federal Power Commission issued its order entered February 15, 1949, authorizing and approving issuance of securities in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-1387; Filed, Feb. 23, 1949; 8:45 a. m.]

[Project No. 2017]

SOUTHERN CALIFORNIA EDISON CO.

NOTICE OF APPLICATION FOR LICENSE (MAJOR)

FEBRUARY 16, 1949.

Public notice is hereby given pursuant to the provisions of the Federal Power Act (16 U. S. C. 791a-825r) that Southern California Edison Company, of Los Angeles, California, has made application for license for proposed major Project No. 2017 (Big Creek No. 4) to be located on San Joaquin River downstream from the Company's existing Big Creek No. 3 plant (Project No. 120) in Fresno and Madera Counties, California. The proposed project would affect lands of the United States within Sierra National Forest and would consist of an arch-type concrete dam (Dam No. 7) about 1,190 feet long and 228 feet high above stream bed; a reservoir with gross capacity of about 35,000 acre-feet at spillway level (elev. 1403 feet U. S. G. S. datum); a conduit about 11,716 feet long consisting of tunnels and steel pipe; penstocks; a power house containing two turbines with capacity of 57,500 H. P. each connected to two 42,000 kva generators; a substation; a switchrack; a 220,000-volt transmission line about 5.8 miles long to the Company's Big Creek Powerhouse No. 3; and appurtenant facilities.

Any protest against approval of this application or request for hearing thereon, with the reasons for such protest or request, and the name and address of the party or parties so protesting or requesting, should be submitted on or before March 30, 1949, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-1388; Filed, Feb. 23, 1949; 8:45 a. m.]

[Project No. 2018]

SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND OAKDALE IRRIGATION DISTRICT

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

FEBRUARY 16, 1949.

Public notice is hereby given that South San Joaquin Irrigation District and Oakdale Irrigation District, of Manteca and Oakdale, California, respectively, have made application under the Federal Power Act (16 U. S. C. 791a-825r) for preliminary permit for a period of 12 months for proposed water power Project No. 2018 (Donnells project) to be located on a stretch of Middle Fork of Stanislaus River in Tuolumne County, California, 27 to 34 miles northeast of Sonora, California. The proposed project would affect lands of the United States within Stanislaus National Forest and would consist of a rockfill type or concrete arch overflow type dam 285 feet high and 730 feet long; a reservoir which at maximum storage level of 4,915 feet would have a surface area of 413 acres and gross capacity of 64,000 acre-feet; a tunnel about 30,000 feet long; a penstock about 1,400 feet long; a powerhouse with peak capacity of 48,240 horsepower; and appurtenant facilities.

A preliminary permit, if issued, shall be for the sole purpose of maintaining priority of application for a license under the Federal Power Act to enable the applicants herein to make examinations and surveys, to prepare maps, plans, and estimates, and to make financial arrangements required for filing an application for license under the Act. A preliminary permit, if issued, will not

authorize construction of the proposed project.

Any protest against the approval of this application or request for hearing thereon, with the reasons for such protest or request, and the name and address of the party or parties so protesting or requesting, should be submitted on or before April 6, 1949, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-1389; Filed, Feb. 23, 1949; 8:45 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

SPECIAL DELEGATIONS OF AUTHORITY

I hereby authorize: (1) The Field Office Director, New York City, to approve change orders executed by the New York City Housing Authority in connection with Projects NY 5-8 and NY 5-9; and (2) the Field Office Director, Chicago, to approve change orders executed by the Chicago Housing Authority in connection with Project ILL 2-9 and by the Housing Authority of the City of Milwaukee in connection with Project WIS 2-1.

I also hereby approve any change orders heretofore approved by the Field Office Director, Chicago, in connection with Project WIS 2-1.

Approved: February 16, 1949.

[SEAL] JOHN TAYLOR EGAN, *Commissioner.*

[F. R. Doc. 49-1391; Filed, Feb. 23, 1949; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2003]

WORCESTER GAS LIGHT CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 16th day of February 1949.

Worcester Gas Light Company ("Worcester"), a public utility subsidiary of New England Gas and Electric Association, a registered holding company, having filed an application, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 and Rule U-50 of the general rules and regulations promulgated thereunder, with respect to the following transaction:

Worcester proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, $2,150,000 principal amount of its ____% First Mortgage Bonds due 1969. The interest rate and the price to the company for the bonds will be determined by competitive bidding except that the invitation for bids will specify that the price to the company shall not be less than 100% nor more than 102.75% of the principal amount.

From the proceeds of the sale of the bonds, $1,000,000 will be applied to the repayment of Worcester's First Mortgage 3½% Bonds due 1954 outstanding in equal principal amount; $1,000,000 to the repayment of promissory notes due a bank; and the balance to reimburse Worcester for funds expended for financing extensions and improvements to its plant and properties. The proposed issue and sale of said bonds has been approved by the Department of Public Utilities of Massachusetts.

Appropriate notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application within the period specified, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and rules thereunder are satisfied, that no adverse findings are necessary thereunder, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said application be granted:

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said act, that said application be, and the same hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and to the further condition that the proposed issuance and sale of bonds shall not be consummated until the results of competitive bidding, pursuant to Rule U-50, have been made a matter of record herein and a further order shall have been entered with respect thereto, which order shall contain such further terms and conditions as may then be deemed appropriate, for which purpose jurisdiction be, and the same hereby is, reserved.

It is further ordered, That jurisdiction be, and the same hereby is, reserved over all fees and expenses to be incurred in connection with the proposed transaction.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1398; Filed, Feb. 23, 1949; 8:46 a. m.]

[File No. 70-2030]

WEST PENN ELECTRIC CO. AND MONONGAHELA POWER CO.

SUPPLEMENTAL ORDER PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE AND RELEASING JURISDICTION OVER FEES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 16th day of February A. D. 1949.

The West Penn Electric Company ("West Penn Electric"), a registered holding company, and Monongahela Power Company ("Monongahela"), a subsidiary of West Penn Electric, having filed with this Commission a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 and certain rules and regulations promulgated thereunder regarding, in part, the issuance and sale by Monongahela, at competitive bidding pursuant to Rule U-50, of $6,000,000 principal amount of First Mortgage Bonds due 1979;

The Commission having, by order dated February 7, 1949, granted and permitted effectiveness to this joint application-declaration, subject, among other things, to the condition that the proposed issuance and sale of these bonds should not be consummated until the results of competitive bidding have been made a matter of record in this proceeding and a further order entered by the Commission on the basis of the record as so completed;

Monongahela now having filed an amendment to the joint application-declaration setting forth the action taken by it to comply with the requirements of Rule U-50 and stating that, pursuant to the invitation for competitive bids, the following bids were received:

Bidder	Interest rate	Price	Cost of money to the company
	Percent		
Equitable Securities Corp.	3⅛	102.14	3.01609
W. C. Langley & Co.	3⅛	102.11	3.01759
Union Securities Corp.	3⅛	102.044	3.02091
Halsey, Stuart & Co., Inc.	3⅛	101.98	3.02413
Salomon Bros. & Hutzler	3⅛	101.9227	3.02701
Lehman Brothers	3⅛	101.9213	3.02708
Kidder, Peabody & Co. and White, Weld & Co.	3⅛	101.90	3.02815
Merrill Lynch, Pierce, Fenner & Beane	3⅛	101.8181	3.03228
Glore, Forgan & Co.	3⅛	101.20	3.06355

It appearing that Monongahela has accepted the bid of Equitable Securities Corporation, that these bonds are to be resold to the public at 102.461% of the principal amount thereof plus accrued interest from February 1, 1949, representing a spread to the underwriters of 0.321% on said bonds;

The record also having been completed with respect to fees and expenses to be paid by Monongahela and West Penn Electric in connection with the proposed transactions and the fees and expenses to be borne by the successful bidders, among these fees to be borne by Monongahela are fees payable to Sullivan and Cromwell, New York, New York, $5,500, and to Steptoe and Johnson, Clarksburg, West Virginia, $500; of these total legal fees of $6,000 to be borne by Monongahela, $5,900 being applicable to the bonds and $100 being applicable to the common stock being issued by Monongahela at this time; fees to be borne by West Penn Electric, payable to Sullivan and Cromwell, $250; and fees to counsel for the successful bidders, Cahill, Gordon, Zachry & Reindel, New York, New York, $4,500:

It is ordered, That said joint application-declaration, as amended be, and the same hereby is, granted and permitted to become effective forthwith subject to the terms and conditions prescribed in Rule U-24 and to the further condition that the reservation of jurisdiction with respect to the payment of fees and expenses applicable to these transactions

and heretofore reserved by the Commission be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R., Doc. 49-1397; Filed, Feb. 23, 1949; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 500A-248]

COPYRIGHTS OF LEBENSWEISER-VERLAG, GERMAN NATIONAL

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations, corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1, respectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business in, such foreign country and are nationals thereof;

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this Order including said Exhibit A, who are residents of, or which are organized under the laws or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all other works designated by the titles therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the foregoing,

d. All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing,

e. All rights of renewal, reversion or revesting, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing,

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Column 1 Copyright numbers	Column 2 Titles of works	Column 3 Names and last known nationalities of authors	Column 4 Names and last known addresses of owners of copyrights	Column 5 Identified persons whose interests are being vested
Unknown	Lehrbuch der Original Vokal - Gebärden-Atmung 1931.	B. M. Leser-Lasario (nationality not established.)	Lebensweiser-Verlag, Gettenbach bei Gelnhausen, Germany (nationality, German.)	Owner.

[F. R. Doc. 49-1380; Filed, Feb. 21, 1949; 9:00 a. m.]

[Vesting Order 12804]

WILLIAM BERNHARD GORICKE

In re: Stock owned by and debts owing to William Bernhard Goricke, also known as William B. Goricke and as William Bernhardt Goricke. F-28-28959-A-1, A-2, A-3.

Under the authority of the Trading With the Enemy Act as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That William Bernhard Goricke, also known as William B. Goricke and as William Bernhardt Goricke, whose last known address is Regerstrasse 21, Munich 9, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, registered in the names of the persons set forth in the aforesaid Exhibit A, presently in the custody of the Bankers Trust Company, 16 Wall Street, New York, New York, in an account entitled "Rotterdamsche Bankvereeniging, also known as Rotterdamsche Bank, N. V., Amsterdam, The Netherlands, Sub—A/C, William B. Goricke," together with all declared and unpaid dividends thereon,

b. That certain debt or other obligation of the Bankers Trust Company, 16 Wall Street, New York, New York, arising out of a Sub-Account entitled "Rotterdamsche Bankvereeniging, also known as Rotterdamsche Bank N. V. Amsterdam, The Netherlands, Sub Account William B. Goricke," maintained with the aforesaid Company, and any and all rights to demand, enforce and collect the same,

c. Those certain shares of stock described in Exhibit B, attached hereto and by reference made a part hereof, registered in the names of the persons set forth in the aforesaid Exhibit B, presently in the custody of Chemical Bank & Trust Company, 165 Broadway, New York 15, New York, in a safekeeping account for Rotterdamsche Bank, Amsterdam, Holland, together with all declared and unpaid dividends thereon,

d. That certain debt or other obligation of The Chase National Bank of the City of New York, Pine Street Corner of Nassau, New York 15, New York, in the amount of $22,306.73, as of September 7, 1948, and any accretions thereto arising from dividends or other payments allocable to the stock described in subparagraph (c) hereof, and presently held in an account entitled Rotterdamsche Bank N. V., Blocked Account Amsterdam, Holland, together with any and all accruals thereto and any and all rights to

demand, enforce and collect the aforesaid debt or other obligation,

e. Thirty (30) shares of $25.00 par value, common capital stock of the Standard Oil Company, 15 West 51st Street, New York, New York, a corporation organized under the laws of the State of New Jersey, evidenced by a certificate numbered CC 111278, registered in the name of L. D. Pickering and Co., and presently in the custody of the Bank of the Manhattan Company, 40 Wall Street, New York 5, New York, in a Custodian Depot of the Rotterdamsche Bank, N. V., Amsterdam, Holland, together with all declared and unpaid dividends thereon,

f. Three (3) shares of $15.00 par value, common capital stock of the Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York 20, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificates numbered 273808 and 272520 for two (2) and one (1) shares respectively, registered in the name of L. D. Pickering and Co., and presently in the custody of Bank of the Manhattan Company, 40 Wall Street, New York 5, New York, together with all declared and unpaid dividends thereon,

g. That certain debt or other obligation of the Bank of the Manhattan Company, 40 Wall Street, New York 5, New York, in the amount of $435.89 as of October 15, 1948, arising from dividends on or payments allocable to the stock described in subparagraphs (e) and (f) hereof, and presently held in the account of Rotterdamsche Bank, N. V., Amsterdam, Holland, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same, and

h. That certain debt or other obligation of the Bank of the Manhattan Company, 40 Wall Street, New York 5, New York, in the amount of $64.16, as of October 15, 1948, presently held in the account of Rotterdamsche Bank, N. V., Amsterdam, and any and all accruals thereto and any and all rights to demand, enforce and collect the aforesaid debt or other obligation,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, William Bernhard Goricke, also known as William B. Goricke and as William Bernhardt Goricke, the aforesaid national of a designated enemy country (Germany); and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 8, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Name and address of corporation	State of incorporation	Type of stock	Par value	Certificate No.	Number shares	Registered owner
Anaconda Copper Mining Co., 25 Broadway, New York, N. Y.	Montana	Capital	$50	606605	100	Fahnestock & Co. of New York City.
				570545	100	Blair S. Williams & Co., New York City.
General Motors Corp., 3044 West Grand Blvd., Detroit, Mich.	Delaware	Common	10	485-611	100	Salkeld & Co., c/o Bankers Trust Co., P. O. Box 704, Church St. Annex, New York 8, N. Y.
				485-612	100	
				561-787	100	Laird, Bissell & Meeds, New York City.
Kennecott Copper Corp., 120 Broadway, New York 5, N. Y.	New York	do	No par	414964	50	Salkeld & Co., c/o Bankers Trust Co., P. O. Box 704, Church St. Annex, New York 8, N. Y.
				415100	15	
				439468	15	

EXHIBIT B

Name and address of corporation	State of incorporation	Type of stock	Par value	Certificate No.	Number of shares	Registered owner
Bethlehem Steel Corp., 25 Broadway, New York, N. Y.	Delaware	7% cumulative preferred	$100	S 58813	50	C. A. England & Co., c/o Chemical Bank & Trust Co., 165 Broadway, New York City.
General Motors Corp., 3044 West Grand Blvd., Detroit, Mich.	do	Common	10	D 386-876	100	Do.
Kennecott Copper Corp., 120 Broadway, New York 5, N. Y.	New York	do	No par.	0301115	20	Do.

[F. R. Doc. 49-1376; Filed, Feb. 21, 1949; 9:00 a. m.]

[Vesting Order CE-465]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN NEW YORK COURTS

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 4 of said Exhibit A opposite the action or proceeding identified in Column 3 of said Exhibit A;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property which said persons obtain or are determined to have as a result of said actions or proceedings in amounts equal to the sums stated in Column 4 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6).

Executed at Washington, D. C., on February 15, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Sum vested
		Item 1	
Zsuzsanna Racz Kovacs	Hungary	Trust u/w of Charles Kovacs, a/k/a Charles Smith and Karoly Kovacs, deceased, Surrogate's Court, Kings County, Brooklyn, N. Y. No. 2698-1939.	$38.00
		Item 2	
Esther Kovacs Szalay, formerly known as Esther Kovacs and Eszter Kovacs.	do	Same	38.00
		Item 3	
Joseph Kovacs, a/k/a Jozef Kovacs and Jozief Kovacs.	do	Same	38.00
		Item 4	
Alexander Kovacs, a/k/a Sandor Kovacs	do	Same	38.00
		Item 5	
Louis Kovacs, a/k/a Lajos Kovacs	do	Same	30.00
		Item 6	
Lidia Kovacs Szalay, formerly known as Lidia Kovacs.	do	Same	30.00
		Item 7	
Elizabeth Kovacs Marko, formerly known as Elizabeth Kovacs and Erzsebet Kovacs.	do	Same	30.00
		Item 8	
Zsofia Ferenczy, a/k/a Zsofia Ferenczy Kovacs, Sophia Ferenczy, and Sophia Kovacs.	do	Same	30.00
		Item 9	
Sophia Kovacs Herenkovics, formerly known as Sophia Kovacs, and Ziofio Kovacs, and Zsfia Kovacs.	do	Same	30.00

[F. R. Doc. 49-1415; Filed, Feb. 23, 1949; 8:50 a. m.]

AMERICAN SECURIT CO.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY [1]

Correction

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

The American Securit Company, Washington, D. C.; Claims Nos. A-135, 613, 618 and 6020; Property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942), relating to United States Patent Application Serial No. 297,183 (now United States Letters Patent No. 2,413,722); property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent No. 1,960,222; all interests and rights of the Attorney General in and to United States Letters Patent No. 1,999,337 (vested by Vesting Order No. 666, 8 F. R. 5047, April 17, 1943) and in and to the Reissue thereof, No. 20,499.

Any interests and rights relating to the above-mentioned property created in Societe Anonyme des Manufactures des Glaces et Produits Chimiques de St. Gobain, Chauny & Cirey by virtue of (1) an agreement as to patent rights and (2) an agreement as to importation, both dated June 1, 1933, by and between the said Societe Anonyme des Manufactures des Glaces et Produits Chimiques de St. Gobain, Chauny & Cirey and The American Securit Company; and any interests and rights relating to the above-mentioned property created in Compagnies Reunies des Glaces et Verres Speciaux du Nord de la France by virtue of (1) an agreement as to patent rights and (2) an agreement as to importation, both dated June 1, 1933, by and between the said Compagnies Reunies des Glaces et Verres Speciaux du Nord de la France and The American Securit Company; vested in the Alien Property Custodian by Vesting Order No. 1511 subparagraphs 5-a and 5-c (8 F. R. 10526, July 28, 1943), are expressly reserved.

Executed at Washington, D. C., February 16, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1308; Filed, Feb. 18, 1949; 8:51 a. m.]

[1] See 14 F. R. 790.

[Vesting Order 12214, Amdt.]

WILHELMINA KOHLSAAT ET AL.

In re: Interests in a bond and mortgage, a property insurance policy, and claim owned by Wilhelmina Kohlsaat, also known as Wilhemenia Kohlsaat, Katharine Kohlsaat, Karl Blume and Anna Kuch.

Vesting Order 12214 dated October 18, 1948 is hereby amended as follows and not otherwise: By inserting between the names "Wilhelmenia Kohlsaat" and "Karl Blume," wherever such names appear in said vesting order, the name "Katharine Kohlsaat."

All other provisions of said Vesting Order 12214 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on February 15, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1413; Filed, Feb. 23, 1949; 8:50 a. m.]

[Vesting Order CE-464]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN MICHIGAN COURTS

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That as a result of such action or proceeding each of said persons obtained or was determined to have the property particularly described in Column 4 of said Exhibit A opposite such person's name;

4. That such property is in the possession or custody of, or under the control of, the person described in Column 5 of said Exhibit A opposite such property;

5. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 6 of said Exhibit A opposite such action or proceeding;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property in the possession or custody of, or under the control of, the persons described in Column 5 of said Exhibit A in amounts equal to the sums stated in Column 6 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6).

Executed at Washington, D. C., on February 15, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Property	Column 5 Depositary	Column 6 Sum vested
		Item 1			
Vincenzo Dellnomo	Italy	Estate of Cesare Dellnomo (Delluomo), deceased, in Probate Court of Wayne County, State of Michigan.	$341.73	County Treasurer, Wayne County, Detroit, Mich.	$13.00
		Item 2			
Guiseppe Dellnomo	do	Same	341.73	do	13.00
		Item 3			
Paulina Dellnomo	do	Same	341.73	do	13.00
		Item 4			
Armando Fanella	do	Same	309.27	do	12.00
		Item 5			
Aurelia Sebastian	do	Same	309.27	do	12.00

[F. R. Doc. 49-1414; Filed, Feb. 23, 1949; 8:50 a. m.]

[Vesting Order 12727]

MARGARET SOUTTER VON LUTTICHAU ET AL.

In re: Trust agreement dated July 29, 1926, between Margaret Soutter von Luttichau, grantor, and James Speyer, and president and directors of the Manhattan Company, trustees. File No. F-28-283-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margaret Soutter von Luttichau, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

(2) That the descendants, names unknown, of Margaret Soutter von Luttichau, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated July 29, 1926, by and between Margaret Soutter von Luttichau, grantor, and James Speyer, and president and directors of the Manhattan Company, trustees, presently being administered by President and Directors of the Manhattan Company, 40 Wall Street, New York 15, New York, trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and descendants, names unknown, of Margaret Soutter von Luttichau are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary, in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 26, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1408; Filed, Feb. 23, 1949; 8:49 a. m.]

[Vesting Order 12782]

MARTHA KUSTER

In re: Personal property owned by Martha Kuster. F-28-29487-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Martha Kuster, whose last known address is Gusow, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: Personal property consisting of one pair of old style earrings set with diamonds, presently in the custody of Jefferson-Gravois Bank of St. Louis, St. Louis 18, Missouri,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Martha Kuster, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1409; Filed, Feb. 23, 1949; 8:49 a. m.]

[Vesting Order 12805]

MINEKI HONDA ET AL.

In re: Bank accounts owned by and debts owing to Mineki Honda, and others. D-39-4100-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mineki Honda, Cheiko Honda, also known as Chieko Honda, and Shigeto Honda, also known as Fred S. Honda, each of whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation of First National Bank of Delano, Delano, California, arising out of a checking account, entitled U. S. Cash Grocery, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Mineki Honda by Kern Wholesale Liquor Co., 800 14th Street, Bakersfield, California, in the amount of $60.00, as of July 21, 1948, representing a credit balance held by the aforesaid Kern Wholesale Liquor Co., together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and

c. That certain debt or other obligation owing to Mineki Honda by United Grocers, Ltd., 685 Sixth Street, San Francisco 3, California, representing overages

during the years 1940, 1941 and 1942, together with any and all accruals thereto and interest thereon, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Mineki Honda, the aforesaid national of a designated enemy country (Japan);

3. That the property described as follows: That certain debt or other obligation owing to Cheiko Honda, also known as Chieko Honda, by First National Bank of Delano, Delano, California, arising out of a savings account, account number 5956, entitled Chieko Honda, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Cheiko Honda, also known as Chieko Honda, the aforesaid national of a designated enemy country (Japan);

4. That the property described as follows: That certain debt or other obligation owing to Shigeto Honda, also known as Fred S. Honda, by First National Bank of Delano, Delano, California, arising out of a savings account, account number 6103, entitled Shigeto Honda, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Shigeto Honda, also known as Fred S. Honda, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 8, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1410; Filed, Feb. 23, 1949; 8:49 a. m.]

[Vesting Order 12818]

WILHELM HOLLNAGEL ET AL.

In re: Bank accounts owned by Wilhelm Hollnagel and others.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons named in Exhibit A, attached hereto and by reference made a part hereof, whose last known addresses are as set forth in Exhibit A, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: Those certain debts or other obligations owing to the persons named in Exhibit A by American Trust Company, 464 California Street, San Francisco, California, arising out of savings accounts, entitled and numbered as set forth opposite the names of the persons listed in the aforesaid Exhibit A, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons referred to in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 10, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Name and address of owner	Title of account	Account No.	OAP No.
Wilhelm Hollnagel, Hamburg, Germany	Wilhelm Hollnagel	6348	F-28-25812-E-1
Johannes Hollnagel, Bremen, Germany	Johannes Hollnagel	6445	F-28-25813-E-1
Peter Hinrich Struckmeyer, also known as Peter Hinrick Struckmeyer, Hetlingen near Wedel, Holstein, Germany.	Peter Hinrich Struckmeyer	4835	F-28-25888-E-1
Katharina Stuben, Pinnebergerstrasse 54, Wedel, Holstein, Germany.	Katharina Stuben	4154	F-28-25889-E-1
Frieda Kronibus, Ohrsen bei Lage in Lippe, Germany.	Frieda Kronibus	7665	F-28-26268-E-1
Otto Kromberg, Leichlingen, Rheinland, Germany.	Otto Kromberg	5327	F-28-26269-E-1
Elise Mathilde Auguste Stuben, Skagerrakstrasse 13, Wedel, Holstein, Germany.	Elise Mathilde Auguste Stuben	4031	F-28-25890-E-1

[F. R. Doc. 49-1411; Filed, Feb. 23, 1949; 8:49 a. m.]